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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
CENTRAL VALLEY AUDITORIUM
1001 I STREET
2ND FLOOR
SACRAMENTO, CALIFORNIA

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Paparian

David Roberti

STAFF

Mark Leary, Executive Director

Kathryn Tobias, Chief Counsel

Terry Jordan, Deputy Director

Julie Nauman, Deputy Director

Rubia Packard, Assistant Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Sara Avila

Elliot Block, Staff Counsel

Catherine Cardozo

Al Chaney

Jan Howard

Jeff Hunts

Howard Levenson

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APPEARANCES CONTINUED

STAFF CONTINUED

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: I'll call to
3 order the November meeting of the California Integrated
4 Waste Management Board. Would you please rise and join us
5 in the Pledge of Allegiance to the Flag.

6 (Thereupon the Pledge of Allegiance was
7 recited together.)

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. Would
9 the Secretary please call the roll.

10 SECRETARY VILLA: Eaton?

11 BOARD MEMBER EATON: Here.

12 SECRETARY VILLA: Jones?

13 BOARD MEMBER JONES: Here.

14 SECRETARY VILLA: Medina?

15 BOARD MEMBER MEDINA: Here.

16 SECRETARY VILLA: Paparian?

17 BOARD MEMBER PAPARIAN: Here.

18 SECRETARY VILLA: Roberti?

19 Moulton-Patterson?

20 CHAIRPERSON MOULTON-PATTERSON: Here.

21 Okay. I'd like to ask that you turn off your
22 cell phones and pagers for the meeting. And also I'd like
23 to remind everybody to keep conserving energy. And we at
24 the Waste Board are doing our part and we're printing a
25 limited number of agendas. They are in the back of the

1 room, and then the speaker slips are also. If you'd like
2 to speak to an item, please put the item number and give
3 it to Ms. Villa who's right over here to my right, Ms.
4 Villa, and then we can hear what you have to say. And we
5 also have a time certain number 15 on school diversion to
6 be heard Wednesday at 11:00 o'clock.

7 Also, Mr. Leary, to avoid people waiting, do you
8 want to make that one remark right now?

9 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair,
10 thank you very much. Agenda Item 1, the Board's
11 consideration of the adoption of the strategic plan, due
12 to a couple of glitches kind of beyond our control, I
13 would ask that the Board defer this item till this
14 afternoon. You and I talked about possibly time certain
15 at say 2:00 o'clock.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. So we're
17 really sorry for the inconvenience. This was something
18 that we had no control over, but for those of you that are
19 here to speak on Item number 1, the Strategic Plan, we
20 will be hearing it after lunch at 2:00 o'clock.

21 Okay. Any members have any ex partes?

22 Mr. Eaton.

23 BOARD MEMBER EATON: I'm up to date, I believe,
24 except I did get this from the San Gabriel Valley Council
25 of Governments. And I'm not sure if that was just an

1 attachment or if anyone who dropped it up here if that's
2 an additional letter. I think we all got copies.

3 CHAIRPERSON MOULTON-PATTERSON: Could you ex
4 parte it for all us?

5 BOARD MEMBER EATON: So I would be happy to ex
6 parte it. It's a letter dated November 8th, 2001
7 addressed to you, Madam Chair, regarding the San Gabriel
8 Valley Council of Governments regarding the strategic
9 plan. And that I believe puts me up to date as well as
10 hopefully all of you.

11 CHAIRPERSON MOULTON-PATTERSON: Okay.

12 Mr. Jones.

13 BOARD MEMBER JONES: I'm up to date, Madam Chair.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

15 BOARD MEMBER MEDINA: I'm up to date as well.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

17 BOARD MEMBER PAPARIAN: Almost up to date. I'd
18 forgotten to add one, which was last Thursday, November
19 8th, I had a conversation with Supervisor Greg Cox of San
20 Diego regarding cleanup monies for cleaning up litter and
21 waste.

22 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

23 I'm up to date.

24 Mr. Eaton, do you have a report or any comments
25 you'd like to make?

1 BOARD MEMBER EATON: No, Madam Chair, since the
2 last time, I took just a few days off.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: No.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

6 BOARD MEMBER MEDINA: Madam Chair, at this time,
7 I would like to present Amalia Fernandez who has been
8 hired as the technical advisor to my office. Amalia comes
9 from the Special Waste Division Tire Hauler Program, where
10 she excelled in her work, and I'd like to welcome Amalia
11 on board. So, Amalia.

12 (Applause.)

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
15 I just wanted to thank a few staff for some good work in
16 the last month or few months. I wanted to thank Shirley
17 Willd-Wagner and Mitch Delmage for their work with my
18 office and MGT to finalize the Ewaste Baseline Study
19 Report which we'll be hearing more about in the next few
20 weeks.

21 I also wanted to thank Rubia Packard for all her
22 hard work on the strategic plan. I'm sure we'll get
23 another chance to thank her again later today. And then
24 finally Kristin Yee with the Used Oil Program for her
25 assistance on the used oil allocation recommendations that

1 we worked on last week in the Budget Subcommittee.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
3 Paparian. And just very briefly, I had the pleasure of
4 visiting Oceanside Glass Tile, and we were able to give
5 them an RMDZ loan and see the great product they're
6 making.

7 Also, on November 2nd, I attended in Malibu an
8 event with Assemblywoman Pavley where we were able to give
9 a 2136 Grant that we all approved to the Cities of Malibu
10 and Santa Monica to help clean up the stormwater there.

11 And on November 7th we met with Assemblyman Wayne
12 regarding burn dumps and also the Department of Toxics was
13 there.

14 And also I'd like to note that this is California
15 Recycles Week. And Thursday, November 15th is American
16 Recycles Day. We'll be publicizing the WRAP of the year
17 award winners during this week. And so I wanted to remind
18 everyone to please participate in any events in your area.
19 We have posted informational material about American
20 Recycles Day on the Board's web site, which can help you
21 to plan events or to attend one.

22 And, at this time, I'd like to turn it over to
23 Mark Leary our Executive Director for his report.

24 EXECUTIVE DIRECTOR LEARY: Thank you, Madam Chair
25 and Members of the board. A couple of fairly substantive

1 items I'd like to report on this morning.

2 Firstly, I'd like to report on some Emergency
3 waivers that have been granted. Pursuant to our
4 regulations in Title 14, Section 17,210.9(c), the
5 Executive Director must report to the Board the granting
6 of an emergency waiver by an LEA and all determinations
7 made concerning that waiver.

8 This type of waiver is the one for declared
9 emergencies only, not to be confused with the stipulated
10 agreements allowed for unforeseeable circumstances. On
11 October 5th, the Orange County LEA granted waivers of
12 permit terms and conditions to four facilities. The Frank
13 R. Bowerman Landfill, Olinda Alpha Landfill, Rainbow
14 Disposal Company Inc, and the CVT Regional Material
15 Recovery and Transfer Facility.

16 These waivers are in response to a declared
17 emergency resulting from a large amount of waste
18 accumulated during a recent week long waste hauler strike.
19 The waiver period ended on October 14th and no problems
20 have been identified relative to this action.

21 The emergency regulations for temporary waiver of
22 terms, i.e. stipulated agreements of permits, adopted by
23 the Board in August were approved by the Office of
24 Administrative Law and became effective on November 1st.
25 They will continue in effect till March 2002.

1 Staff has initiated the full regulation
2 development process to make these regulations are
3 permanent. Prior to these regulations becoming effective,
4 but consistent with Board policy, the San Luis Obispo LEA
5 issued a stipulated agreement to the operator of the Cold
6 Canyon Landfill on September 27th. This stipulated
7 agreement allows the operator to compost green material on
8 the landfill.

9 The unforeseeable circumstance in this case was a
10 delay relative to the review and approval of a revision to
11 the permit for the adjacent compost facility.

12 Considering the stipulated agreement was
13 developed and issued prior to the regulations being fully
14 approved, I have asked staff to work with the LEA to make
15 necessary changes to the stipulated agreement to ensure
16 that it's consistent with the new regulations.

17 As the Chair mentioned, we have had a couple of
18 activities related to burn dumps this month. On the
19 Board's agenda this month are two items dealing with our
20 closed illegal and abandoned site cleanup program. This
21 program is instrumental in the mitigation of health,
22 safety and environmental hazards opposed by dump sites
23 including burn dump sites.

24 I'd like to take a minute to update the Board
25 about the interim hearing on burn dumps that was held last

1 Thursday, November 8th at the State Capitol.

2 This was a joint hearing and included the
3 Assembly Natural Resources Committee, the Assembly
4 Environmental Safety and Toxics Materials Committee and
5 the Senate Environmental Quality Committee. It was held
6 to provide the committees some background on the complex
7 issues surrounding burn dumps in California.

8 As you know, San Diego has dealt with a number of
9 burn dumps in the jurisdiction, and the Board has assisted
10 with the cleanup at the 38th and Redwood site. The
11 committees became aware of the San Diego situation and
12 wanted more information on the status of burn dumps in the
13 State. In attendance were Assemblymember Howard Wayne
14 from San Diego who Chairs the Assembly Natural Resources
15 Committee, as well as Assemblymember Tom Harman from
16 Huntington Beach and Senator Tom McClintock from Thousand
17 Oaks.

18 Representatives from the City of San Diego, the
19 LEA community and the Sierra Club attended and presented
20 information on their experiences with burn dumps.

21 Staff from CalEPA, Department of Toxic Substances
22 Control and the Water Board also participated and
23 discussed their roles in the process. Our role and
24 background was presented by Deputy Director Julie Nauman.
25 I'd like to compliment Julie on a great job she did in

1 presenting the information at the closed illegal and
2 abandoned site cleanup program, and to all the staff that
3 worked in support of Julie in making a great presentation.

4 Our information was well received as was the
5 Board's action in burn dumps in the past, and was clearly
6 appreciated by the members. While no specific intentions
7 were given by Assemblymember Wayne or any other member
8 regarding burn dump issues, Mr. Wayne did say in closing
9 that this is an issue that needs to be addressed and that
10 he will be taking the formation provided at the hearing
11 and exploring options.

12 His bill, Assembly Bill 709, which was introduced
13 this past year and is currently being held in Senate EQ,
14 includes intent language regarding co-disposal sites and
15 is one bill that could become a vehicle for burn dump
16 legislation. Our staff will be working on this issue and
17 will keep the Board updated.

18 Two economic studies were recently completed with
19 financial assistance from the Board. Researchers at the
20 University of California, Berkeley conducted one study
21 called The Economic Impact of Waste Disposal and Diversion
22 in California.

23 While the National Recycling Coalition in
24 association with RW Beck prepared the other study, The
25 California Recycling Economic Information study. Both

1 studies were needed because they examined different
2 questions about diversion and pursued different goals.
3 Despite differences in definitions, data sources and
4 assumptions, their findings both clearly showed the
5 economic benefits of diversion.

6 Diverting solid waste is a big business, is a
7 positive, viable industry that is comparable with other
8 large industries in California.

9 Second, in addition to being good for the
10 environment, diversion creates jobs and benefits both
11 local and statewide economies.

12 Third, diversion has a bigger economic impact per
13 ton on the economy than disposal.

14 And fourthly, the total statewide economic
15 impacts from diversion match or exceed the economic
16 impacts from disposal, even though there is more waste
17 disposed than there is diverted. Staff are reviewing both
18 reports and are in communication with the authors to
19 clarify some questions related to these findings.

20 Once this review is completed staff will be
21 pleased to present a summary of our findings to present to
22 you as an informational item.

23 I'd like to also report on the progress on the
24 tire manifests. Staff from this Board's Special Waste
25 Division and the Information Management Branch conducted

1 four workshops over the last months to present the draft
2 waste tire manifest forms and the submittal process for
3 stakeholders for review and comment.

4 The first two workshops were by invitation only,
5 while the last two were open to the public. All were well
6 attended and we received many suggestions on how to
7 improve the forms. The submittal process, particularly
8 the electronic option, and the database functions were
9 discussed extensively. Initial testing of the new system
10 is planned for the coming spring when staff will work with
11 volunteer users from the industry.

12 And finally, on October 25th and 26th, the third
13 Recycling Market Development Zone Administrator Training
14 Conference for 2001 was held in Santa Rosa. Attendance of
15 this successful event was over 40, including zone
16 administrators and board staff. The training focused on
17 economic gardening, a novel concept for economic
18 development, and tailoring this concept to recycling
19 manufacturers in the business's providing their feed
20 stock.

21 With this concept, economic developers focused
22 their resources on growing the local businesses within
23 their community, instead of recruiting businesses from
24 outside their jurisdictions. Research in this area has
25 shown that real potential for job development comes from

1 small local businesses that offer potential for
2 significant growth.

3 Economic gardening targets these businesses.
4 Several guest speakers were featured including Chris
5 Gibbons of Littleton Colorado where the concept originated
6 and was first successfully implemented. The purpose of
7 these training conferences is to provide zone
8 administrators with the tools and practical knowledge to
9 attract and retain businesses in their zones.

10 This was a fourth in a series of eight
11 conferences funded by the Board in September of last year
12 through a \$170,000 contract that extends through next
13 June.

14 That concludes my report.

15 Thank you, Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
17 Leary. Okay, so getting back to our Agenda, Item 6 and 17
18 have been pulled. Item 15 will be again heard tomorrow at
19 11:00 a.m. Again number 1, the Board's Strategic Plan, in
20 case anyone missed that, will be heard today at 2:00
21 o'clock.

22 Items 3, 5, 8, 9, 20, 22 and 36 had been proposed
23 for the consent agenda, with items 20 and 22 being removed
24 per the briefing at Mr. Paparian's request. Would any
25 Board Member wish to pull 3, 5, 8, 9 or 36 from consent?

1 BOARD MEMBER EATON: Madam Chair, I have a couple
2 of questions on Item number 3, but I think they can be
3 dispensed with quickly, if you wanted to go to that item,
4 then you can have a full consent calendar. I just have a
5 few administrative questions.

6 CHAIRPERSON MOULTON-PATTERSON: Certainly.
7 Number 3.

8 BOARD MEMBER EATON: My understanding is that
9 this will not go out to bid; is that correct? Is this
10 item going to go out to bid, \$54,000 contract?

11 MR. HUNTS: Good morning, Board members. Jeff
12 Hunts with the Waste Prevention and Market Development
13 Division. Staff are still working on determining whether
14 there is a CMAS or and MSA vendor that is qualified to
15 undertake this project or whether we will do an RFP.

16 There's a tight timeline. We're investigating
17 the scheduling of an RFP in order to put the support in
18 place before early spring when milestones in this project
19 need to be accomplished. So I guess the short answer is
20 we don't know yet.

21 BOARD MEMBER EATON: So how would we be able to
22 vote on something that we don't know what the process is
23 going to be for awarding the contract, because there are
24 other issues in awarding the contract with other
25 contractors especially since this is a new area.

1 I believe from a personal position that we, as a
2 board, should know whether it's going to go out in a
3 contract form or out to bid, other wise we never see it
4 after it leaves our hands and we have no opportunity, if
5 for some reason or another, we have had an experience with
6 a particular contractor or if it's an interagency
7 agreement what to expect from that. I don't think that's
8 the way we've ever done these things is we've always --
9 maybe I'm mistaken, but I always believe that we, as a
10 board, ought to be able to determine what it is we're
11 handing out.

12 And what we're saying is you want the money. I
13 understand the tight timeline, but we don't know if it's
14 going to go out to bid or if it's going to go out. And if
15 there's a problem later on, if it is a bid process, then
16 it comes right back in our lap.

17 MR. HUNTS: The item before the Board right now
18 is simply consideration of the scope of work for the
19 project. The award would need to come back to the Board
20 at a later date, regardless of the mechanism to secure a
21 contractor.

22 BOARD MEMBER EATON: So will you be bringing it
23 back with the contract? And if so, how will we know
24 whether or not you determined whether or not you're going
25 to go out to bid or if it's going to be under a CMAS or an

1 interagency agreement.

2 MR. HUNTS: I'm sorry. I guess I didn't
3 understand the question.

4 CHAIRPERSON MOULTON-PATTERSON: I think Mr. Eaton
5 is just saying we would like to know at the time that we
6 approve it whether it is going to be going out to bid or
7 if you're just going to be going, what is it, the CMAS or
8 the master services agreement or whatever that is, is that
9 right, Mr. Eaton?

10 BOARD MEMBER EATON: Yeah. I just want -- I mean
11 I don't have a problem with the scope of work or whatever,
12 but I do have an issue with regard to procedure as to how
13 it's going to be awarded and under what circumstances,
14 because I think that's where we have the greatest input
15 from a policy perspective.

16 DEPUTY DIRECTOR JORDAN: Member Eaton and Madam
17 Chair and the rest of the members, when the award does
18 come back it clearly explains what process was used. It
19 will discuss whether it was MSA, CMAS or whether it went
20 out to bid.

21 BOARD MEMBER EATON: So do you think we ought to
22 know what that's going to be before we vote on something?
23 Isn't that proper, because if it's going to go out to a
24 CMAS, then I want to be able to see who those contractors
25 are, whether or not we've given them contracts in the

1 past, whether or not they've performed those contracts
2 adequately in the past for either this particular agency
3 and/or any other agency in state government or local
4 government, how points are going to be, you know, awarded.
5 I mean, I'd like to have some background.

6 DEPUTY DIRECTOR JORDAN: Typically, the different
7 types of scenarios used, methodology isn't necessarily
8 always discussed in the scope. The scope is what we need
9 to have done. And obviously if it can be attained through
10 services that the State can offer, whether it be through
11 an interagency or CMAS or MSA where the State has actually
12 gotten a contracted individual that can do that type of
13 work, that's what we would see.

14 If that's not attainable, then obviously the bid
15 process, whether it be through RFP or whatever would be
16 the next steps. But the scope doesn't always delineate
17 that.

18 CHAIRPERSON MOULTON-PATTERSON: Maybe a solution,
19 and I'll certainly defer to Mr. Eaton, would be if we
20 approve this then as soon as you know even before it comes
21 back to us get back to us. Would that suffice?

22 BOARD MEMBER EATON: That's fine, that was all I
23 was really trying to find out. I didn't have a problem
24 with the scope. I, however, do not want us going out and
25 awarding contracts and then bringing them back here

1 without having a determination whether or not it should go
2 out to bid or not go to bid. And that's the only point I
3 had.

4 The scope is not the issue and I understand why
5 it's not there, but you're talking like you've already
6 made a decision to go out, and I want to know that before,
7 you know, we do that. There are other issues out there
8 involving contractors right now as it relates to the state
9 and the financial well-being of the State, and I want to
10 make sure how those contracts are written, late payments
11 all kinds of things.

12 CHAIRPERSON MOULTON-PATTERSON: Okay.

13 BOARD MEMBER PAPARIAN: Madam Chair.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

15 BOARD MEMBER PAPARIAN: I'm fine with that. My
16 only concern would be that we just be consistent with
17 whatever our procedure is, you know, across all the
18 similar contracts.

19 BOARD MEMBER EATON: Well, what would be
20 consistent is what we do normally is that we, as a board,
21 look at the scope of work and award a contract and we make
22 a determination whether or not we feel that based upon
23 certain considerations, and they can change, sometimes we
24 can go with it, with a CMAS due to timely considerations,
25 sometimes we can go to a bid process, because it's much

1 more open, and we might be able to bring in some new
2 people who may have a different perspective than in the
3 past.

4 So I think there is no rhyme or reason. What we
5 ought to be able to do is have that ability to make those
6 determinations on a case-by-case basis. And I surely
7 don't want to bring someone in from a particular field
8 that doesn't have the experience or the skills necessary
9 or the skill set to perform the function. And that's what
10 happens sometimes under the CMAS, because there is a time
11 constraint and we, as a board, I think have to act as a
12 backstop sometimes and say wait a minute, we believe it
13 should be X, Y or Z. I'm not saying that this is the
14 case, but that is the normal proper procedure that's
15 followed in contract awarding in State contracting.

16 And so with that, you know, I'll go back on
17 consent, but I do want to see those items before a
18 decision has been made.

19 CHAIRPERSON MOULTON-PATTERSON: I agree, Mr.
20 Eaton. Mr. Leary, can you make sure we have that
21 consistently.

22 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.
24 With that then, may I have a motion to approve 3, 5, 8, 9
25 and 36 for consent.

1 BOARD MEMBER JONES: Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption of the
4 consent calendar items 3, 5, 8, 9 and 36.

5 BOARD MEMBER EATON: Second.

6 CHAIRPERSON MOULTON-PATTERSON: Please call the
7 roll.

8 SECRETARY VILLA: Eaton?

9 BOARD MEMBER EATON: Aye.

10 SECRETARY VILLA: Jones?

11 BOARD MEMBER JONES: Aye.

12 SECRETARY VILLA: Medina?

13 BOARD MEMBER MEDINA: Aye.

14 SECRETARY VILLA: Paparian?

15 BOARD MEMBER PAPARIAN: Aye.

16 SECRETARY VILLA: Roberti?

17 Moulton-Patterson?

18 CHAIRPERSON MOULTON-PATTERSON: Aye. Okay.

19 EXECUTIVE DIRECTOR LEARY: Madam Chair, we have
20 one last minute pull, Agenda Item 32, the Jolon Road
21 Landfill is not ready for the Board's adoption or
22 consideration.

23 CHAIRPERSON MOULTON-PATTERSON: It's being
24 pulled?

25 EXECUTIVE DIRECTOR LEARY: It's being pulled.

1 CHAIRPERSON MOULTON-PATTERSON: Thirty-two?

2 Okay. Fine. And one of the things that I did
3 neglect to mention is --

4 BOARD MEMBER EATON: Can I ask a question?

5 CHAIRPERSON MOULTON-PATTERSON: Yes.

6 BOARD MEMBER EATON: Mr. Leary, you said Item 32
7 was being pulled?

8 EXECUTIVE DIRECTOR LEARY: Yes, sir.

9 BOARD MEMBER EATON: Do we have a 60-day time
10 crunch on that?

11 EXECUTIVE DIRECTOR LEARY: The operator is
12 waiving time.

13 BOARD MEMBER EATON: Do we have that on the
14 record?

15 CHAIRPERSON MOULTON-PATTERSON: Yeah, that's a
16 good idea.

17 BOARD MEMBER EATON: I mean, I just want to --
18 you know, let's just put these things on the record. You
19 know, we're not just pulling items, but if it's a time
20 crunch, you know, let's not get loosey-goosey you know.
21 Let's do things the way they are properly done.

22 DEPUTY DIRECTOR NAUMAN: That is consistent. The
23 issue here was raised during the briefing that there's an
24 outstanding issue on their nondisposal facility element
25 that needs to be amended. And we briefed the Board last

1 week and told them that there was a possibility that this
2 item might need to be pulled pending our resolution on
3 this NDFE issue.

4 With further discussions with the operator, they
5 realized that they have a time problem, in syncing the
6 amendment to the NDFE with this permit. And so the NDFE
7 has to precede the permit. That will happen in December,
8 so they have agreed to waive time, and we have
9 confirmation from them.

10 CHAIRPERSON MOULTON-PATTERSON: Okay, so Item
11 Number 32 we have a waiver of time.

12 DEPUTY DIRECTOR NAUMAN: Right, and I apologize
13 for bringing it so late, but I was waiting for that
14 confirmation.

15 BOARD MEMBER EATON: But we will have it in
16 writing?

17 DEPUTY DIRECTOR NAUMAN: Yes.

18 BOARD MEMBER EATON: And when will we have it?

19 DEPUTY DIRECTOR NAUMAN: I believe we already
20 have it in an Email, and I'm expecting to have a letter of
21 confirmation.

22 BOARD MEMBER EATON: You understand my point,
23 because if we go away today and tomorrow and the time runs
24 after 60 days, it's highly unlikely that they would do
25 anything, but you never know that by operation of law that

1 does become a permit.

2 DEPUTY DIRECTOR NAUMAN: I understand and we have
3 tried to be very consistent and not pull items until we
4 have the confirmation in hand.

5 BOARD MEMBER EATON: Thank you.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
7 Eaton.

8 Thank you, Ms. Nauman.

9 Okay Item number 1, as I said, will be time
10 certain at 2:00 o'clock. However, I'm going to make one
11 exception, one individual has a plane out at 1:00 o'clock,
12 and so I've agreed to let them make a very short public
13 comment. And I was going to limit the public comments on
14 this item to three minutes. So, Mr. Liss, if you would
15 like to come up and speak to us for three minutes, we'll
16 accommodate your schedule on Item number 1.

17 MR. LISS: Madam Chair and Members of the Board,
18 thank you so much for allowing me this opportunity. I am
19 flying to Los Angeles on another project this afternoon.
20 Last week I spoke at length about concerns of the Global
21 Recycling Council, a technical council of the California
22 Resource Recovery Association regarding zero waste,
23 producer responsibility, product stewardship,
24 environmentally responsible purchasing and environmental
25 justice.

1 I just wanted to come today to reiterate for the
2 record our strong support for the strongest language on
3 those points as possible. My details were provided last
4 week, no need to reiterate them again.

5 And I do appreciate the leadership that the Board
6 has been showing in these areas and needs to show in the
7 future and look forward to strong language on those points
8 being included in the final strategic plan.

9 Thank you for the time.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
11 Liss.

12 Okay that brings us to New Business, Item number
13 2, Ms. Wohl, Waste Prevention and Market Development
14 Section

15 DEPUTY DIRECTOR WOHL: Good morning, Madam Chair
16 and Board Members. Patty Wohl, Waste Prevention and
17 Market Development Division.

18 Agenda Item 2 is Consideration of Approval to
19 Formally Notice Proposed Permanent Regulations to Base
20 Rigid Plastic Packaging Container Compliance
21 Determinations under Public Resources Code Section
22 42310(b) and (c) on the Previous Year's Actual Recycling
23 Rates.

24 And Jan Howard will present.

25 MS. HOWARD: Good morning, Madam Chair and Board

1 Members. I'm Jan Howard with the Plastics Recycling
2 Technology Section.

3 Today's item is to get your approval to begin the
4 process of making permanent existing rigid plastic
5 packaging container emergency regulations. The emergency
6 regulations became effective on September 17th, 2001. The
7 regulations allow regulated companies to use the previous
8 year's actual rigid plastic packaging container recycling
9 rates to comply with the RPPC in the current year.

10 RPPC recycling rates are adopted by the Board in
11 July of each year for the previous compliance year. In
12 the past, companies did not know until six months after
13 the end of the compliance year whether they could rely on
14 the recycling regs for compliance purposes. The
15 regulations allow the Board to provide some advanced
16 notice to the regulated companies so they can better plan
17 for their individual compliance with the RPPC law.

18 Staff proposes to notice a formal rule making by
19 November 30th, 2001. This would begin a 45-day public
20 comment and review period with the public hearing to be
21 held at the January board meeting.

22 Staff recommends that the Board direct staff to
23 begin the rule-making process by adopting Resolution
24 number 2001-458.

25 This concludes my presentation and I'd be happy

1 to answer any questions.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
3 Howard.

4 Any questions?

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I'll move
7 adoption of Resolution 2001-458, consideration of a
8 approval of the formal notice of proposed permanent
9 regulations to base rigid plastic packaging container
10 compliance determinations under PRC Section 42310(b)&(c),
11 previous year's actual recycling rates.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.

13 BOARD MEMBER MEDINA: Second.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
15 motion by Mr. Jones seconded by Mr. Medina to approve
16 Resolution 2001-458.

17 Please call the roll.

18 SECRETARY VILLA: Eaton?

19 BOARD MEMBER EATON: Aye.

20 SECRETARY VILLA: Jones?

21 BOARD MEMBER JONES: Aye.

22 SECRETARY VILLA: Medina?

23 BOARD MEMBER MEDINA: Aye.

24 SECRETARY VILLA: Paparian?

25 BOARD MEMBER PAPARIAN: Aye.

1 SECRETARY VILLA: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

3 Number 3 was approved on consent.

4 Number 4.

5 DEPUTY DIRECTOR WOHL: Agenda Item 4 is

6 Consideration of Approval of Pilot Project "Partnerships

7 For Obtaining External Grant Funds for Organics Market

8 Development"

9 And Howard Levenson and Ron Lew will present.

10 MR. LEVENSON: Good morning, Madam Chair and

11 Board Members. This item requests that the Board -- I'm

12 Howard Levenson with the Waste Prevention and Market

13 Development Division.

14 This item requests that the Board consider and

15 approve a pilot project entitled, "Partnerships For

16 Obtaining External Grant Funds For Organics Market

17 Development." This isn't a board grant program, but

18 rather it's a new idea to access external funding for our

19 partners.

20 Just a little bit of background. Over the past

21 decade, the Board has funded numerous compost and mulch

22 demonstration projects to develop and expand markets for

23 organic materials. Historically, these funds have come

24 from the Integrated Waste Management Act and transfers

25 from the RMDZ account. But these discretionary

1 contracting funds are more limited now, and, of course, we
2 have more and more meritorious projects that are competing
3 for those same dollars.

4 There are a number of state and federal fund
5 grant programs and funding programs in existence that
6 would fit our current priorities in the markets area for
7 organic materials, but we haven't been able to frequently
8 or consistently access those dollars for a variety of
9 reasons. Sometimes we're unaware of the existence of a
10 particular grant program. Sometimes we're unable to form
11 or get a partner in time to get an application in. And in
12 other cases we haven't been able to partner with an entity
13 that is qualified enough or that's able to submit a good
14 enough grant application to compete and win awards.

15 So this pilot program is an attempt to increase
16 our chances of accessing these funds through a systematic
17 process. And if it works, it could be considered by other
18 branches and sections and divisions here at the Board.
19 And we'll report back to the Board and tell you how well
20 it works in about year or so.

21 Ron Lew is going to give you a little bit of the
22 mechanics of the program and see if you have any
23 questions.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
25 Levenson.

1 Mr. Lew.

2 MR. LEW: Good morning, Madam Chair and Members
3 of the Board. Ronald Lew with the Waste Prevention and
4 Market Development Division.

5 I'd like to highlight briefly some of the
6 features of the pilot along with some of the
7 implementation mechanics we'll be implementing in the next
8 year or so or actually several months to get this pilot
9 under way.

10 First, one of the features of the pilot is that
11 we are going to methodically or have already methodically
12 identified long-term external funding sources, and we plan
13 to do this in the future well in advance of application
14 deadlines, approximately one to one and a half years prior
15 to anticipated funding.

16 For this particular pilot, our section identified
17 and chose four specific -- I'm sorry, five specific grant
18 programs based on discussions with Grant Program Managers
19 about the availability of funds, topical fit with Board
20 priorities, and other criteria.

21 You have, as part of the agenda item, a list of
22 the five grant programs that were chosen. They were
23 chosen from a pool substantially larger than those five.

24 The next feature of the pilot is that we
25 systematically select and solicit qualified partners with

1 project concepts appropriate for targeted funds. In
2 addition, we help develop complete and thorough grant
3 applications several months prior to deadline of those
4 grant programs to allow time for refinements. And
5 finally, we will help facilitate some of the grant writing
6 aspects of potential projects.

7 Some of the mechanics of the pilot include
8 issuing a public solicitation, which you have as
9 Attachment 1 of the grant item, for a short three to five
10 page concept idea using a template that we have attached
11 as Attachment 2.

12 When these are received staff will evaluate the
13 submitted proposal, and we will use specified evaluation
14 criteria which you have as attachment 3. Once partners
15 are chosen, individual staff members will work with
16 partners to develop grant application and other
17 assistance.

18 One of the key features of this program is that
19 the funds would be awarded directly to the external grant
20 program partner not to CIWMB.

21 As Howard Levenson alluded to, after one year,
22 this pilot will be evaluated and we will decide whether to
23 continue the pilot, refine it or cease the pilot.

24 We, staff, recommends that the Board approve
25 Option number 1 and adopt Resolution 2001-457.

1 Thank you.

2 Are there any questions?

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Lew.

5 Any questions?

6 Okay, may I have a motion?

7 Mr. Medina.

8 BOARD MEMBER MEDINA: Madam Chair, I'd like to
9 move resolution 2001-457, consideration of approval of
10 pilot project partnerships for obtaining external grant
11 funds for the organics market development.

12 BOARD MEMBER JONES: Second.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
14 motion by Mr. Medina seconded by Mr. Jones to approve
15 resolution 2001-457.

16 Please call the roll.

17 Before we call the roll, Senator Roberti, do you
18 have any ex partes?

19 BOARD MEMBER EATON: I believe I'm up to date.

20 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you,
21 Senator.

22 Please call the roll.

23 SECRETARY VILLA: Eaton?

24 BOARD MEMBER EATON: Aye.

25 SECRETARY VILLA: Jones?

1 BOARD MEMBER JONES: Aye.

2 SECRETARY VILLA: Medina?

3 BOARD MEMBER MEDINA: Aye.

4 SECRETARY VILLA: Paparian?

5 BOARD MEMBER PAPARIAN: Aye.

6 SECRETARY VILLA: Roberti?

7 BOARD MEMBER ROBERTI: Aye.

8 SECRETARY VILLA: Moulton-Patterson?

9 CHAIRPERSON MOULTON-PATTERSON: Aye.

10 Okay. We approved Item number 5 on consent, and
11 item 6 was deleted. That concludes our Waste Prevention
12 and Market Development.

13 Thank you.

14 Now, we go to the Executive, Administrative and
15 Policy part of our agenda, number 7, which was revised --
16 I was looking for Ms. Packard. It's Ms. Jordan. Thank
17 you.

18 DEPUTY DIRECTOR JORDAN: Thank you, Madam Chair.
19 Good morning, Madam Chair and Board Members. I'm Terry
20 Jordan with the Administration and Finance Division.

21 Item number 7 is Consideration of Approval of
22 Selected Grant Scoring Criteria, Evaluation Methods and
23 Processes for All Competitive Grant Programs.

24 This consideration item addresses a number of
25 policy issues for all competitive grants. These include

1 environmental justice requirements, a standard definition
2 of indian tribes, green procurement criterion, geographic
3 distribution of funds, and tied scores funding.

4 Each of these issues has been previously
5 addressed by members in separate competitive grant award
6 items over the course of the past year or more. As such,
7 the Administration and Finance Division program and legal
8 staff felt it was time to bring forward this policy item
9 to the Board for direction so that uniformity could be
10 provided for all the Board administered competitive
11 grants.

12 The Administration and Finance Division staff and
13 legal have worked collaboratively to develop this policy
14 item.

15 However, there are still some differing opinions
16 over the recommendations specifically on green procurement
17 and geographic distribution that are to be presented
18 today.

19 Program staff is present to speak to those
20 concerns. This item will be presented by Sara Avila of
21 the Grants Administration unit.

22 MS. AVILA: Good morning, Madam Chair and Board
23 Members. My name is Sara Avila of the Grants
24 Administration Unit. The Grant's Administration Unit was
25 established to provide consistency and coordination among

1 the various grant programs at the Board.

2 One of our responsibilities is to ensure that the
3 grant scoring criteria and the evaluation methods and
4 processes for the grant programs are uniformly
5 implemented.

6 In September of 1996 the Grants Administration
7 Unit recommended and the Board approved standardization of
8 general review criteria for all competitive grant
9 programs, and a procedure for presenting the criteria and
10 evaluation process to the Board.

11 The approved criteria were needs, methodology,
12 objectives, evaluation, budget and completeness. Then in
13 December of 1998, the Board approved the standardization
14 process for all grant programs. This process included the
15 implementation of a blind review to ensure scoring
16 consistency, the requirement that the grantees return
17 agreements in a timely manner, conditional award of grants
18 to grantees without standing accounts receivable, the
19 requirement that requests for time extensions be on a
20 three-year term must be approved by the Board, and the
21 implementation of a question and answer period during the
22 grant application period.

23 We are before you today to get the Board's
24 direction in several areas that have arisen since the last
25 board adopted policy.

1 The first item is environmental justice. Prior
2 to the October 2001 board meeting, the Board directed that
3 environmental justice be considered in the grant process.
4 Grant programs have been addressed in this issue in
5 various ways shown on Attachment 1. Staff recommends that
6 the Board formally direct that all competitive grant
7 applications shall include an environmental justice
8 certification, and there shall be an environmental justice
9 provision in each grant agreement unless other wise
10 directed by the Board.

11 The second item is indian tribes. The Board
12 directed that Indian tribes be considered eligible for
13 certain grant funding. At the September 2001 Board
14 meeting, staff presented a discussion item on cooperative
15 agreements between the Board and California indian tribes.
16 Since that time the Administration and Finance Division
17 has worked closely with legal and we are recommending a
18 standardized definition of indian tribes. In recognition
19 of the unique governmental structure of indian tribes and
20 in an attempt to provide for full inclusion of indian
21 tribes in board grants where appropriate, it is
22 recommended that the Board approve two definitions.

23 Staff recommends the Board adopt for grant
24 eligibility purposes the following standardized definition
25 for grant -- for indian tribes. Indian tribes means an

1 indian tribe, band, nation or other organized group or
2 community residing within the borders of California, which
3 is recognized as eligible for special programs and
4 services provided by the United States to indians because
5 of their status as indians and which meets the criteria of
6 the grant program.

7 The second definition for indian tribes means an
8 indian tribe, band, nation or other organized group or
9 community residing within the borders of California, which
10 can establish that it is a governmental entity and which
11 meets the criteria of the grant program.

12 The third item is green procurement. The Board
13 approved the in-house waste reduction and recycled content
14 pilot procurement policy Resolution 1999-157, which
15 requires all contractors and grantees to report on the
16 recycled content of their purchases. This issue has been
17 addressed in the terms and conditions for the various
18 grant programs.

19 Next month, the Waste Prevention and Market
20 Development Division will be presenting the item on
21 recycled product procurement policies for contracts,
22 grants, and other Board funded purchasing.

23 At their December 1999 meeting, the Board
24 discussed the concept that 50 percent of the general
25 review criteria be allocated for evidence that applicant

1 has a current green procurement policy at the time of
2 submittal of the application.

3 Since there was no formal action on this
4 suggestion, the various grant programs have been
5 inconsistent incorporating the green procurement scoring
6 points into their criteria.

7 Currently, the green procurement scoring criteria
8 points vary among grant programs anywhere from zero to 15
9 points.

10 BOARD MEMBER ROBERTI: Madam Chair?

11 CHAIRPERSON MOULTON-PATTERSON: Senator.

12 BOARD MEMBER ROBERTI: I thought it was very
13 clear two years ago that we set to have a green
14 procurement policy. Now, you're saying some of the
15 programs are at zero.

16 MS. AVILA: Yes.

17 BOARD MEMBER ROBERTI: That seems to be contrary
18 to the Board direction.

19 DEPUTY DIRECTOR JORDAN: Senator, we have a green
20 procurement policy. It's the points that were applied to
21 the actual scoring criteria.

22 BOARD MEMBER ROBERTI: If you don't apply any
23 points to the bids, then there's no policy, at least along
24 the lines of what the Board had directed, and that was to
25 apply points.

1 CHAIRPERSON MOULTON-PATTERSON: I thought we had
2 set 15 percent.

3 BOARD MEMBER ROBERTI: That was two years ago.

4 DEPUTY DIRECTOR JORDAN: Within the application
5 scoring criteria, it has been inconsistent. Within the
6 actual terms and conditions, they have required that they
7 have a policy and they certify as such.

8 BOARD MEMBER ROBERTI: I don't quite understand.

9 DEPUTY DIRECTOR JORDAN: In the application
10 process, the criteria requires certain things, and
11 obviously one of the issues here is that there be
12 incorporated a range or a certain percentage for the
13 applicants to meet when they've applied.

14 When they actually receive an award, there's a
15 requirement in the terms and conditions of their grant
16 that makes them comply with having a policy and certifying
17 as such.

18 BOARD MEMBER ROBERTI: And I'm going to
19 paraphrase, and I don't want to seem sarcastic, but I'm
20 trying to paraphrase. That means that in some cases there
21 is no 15 percent or 15 point markup, adjustment, whatever
22 we want to call it, but they have to sign something to be
23 good boys and girls afterwards?

24 DEPUTY DIRECTOR JORDAN: That's correct.

25 BOARD MEMBER ROBERTI: That's nothing. That's

1 nothing. And it is totally contrary to the Board
2 directive of two years ago. And if there was a problem,
3 staff should have come back to us and said, hey, there's a
4 problem in implementing it. The problem is not only on
5 green procurement, but it's on the whole staff
6 relationship to the Board.

7 I mean it takes forever to do something, forever,
8 even when the Board gives a directive. Now, I can
9 understand sometimes we are straight jacketed into rules
10 beyond our control, but in this case, two years ago, 23
11 months. This is the November meeting of '01, that was the
12 December meeting of '99. Any reasonable Board Member
13 would have been left with the belief that somehow our
14 directive was going to be implemented.

15 Now, we're told that some of the programs
16 unbeknownst, I would say, to any Member of the Board,
17 certainly unbeknownst to me, wasn't implemented. You know
18 some were, some weren't based on findings that I don't
19 know what they are as to what the problems that the staff
20 had in implementing it.

21 That's 23 months ago. So it's two problems, the
22 green procurement, and it's for us somehow to put some
23 dynamite under our seats and get us moving.

24 Madam Chair, I was speaking about our terms. You
25 know my term is up at the end of this next year, so who

1 knows what happens. I'm not complaining or lamenting
2 about that. What I am saying is that wouldn't it be nice
3 if in our life times something could be implemented even
4 in those cases where you started early. And we're still
5 waiting and waiting and waiting and not told by staff that
6 there was a problem, if there was a problem, and I can't
7 imagine what it was.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,
9 Senator. And I do remember the 15 percent. I believe,
10 Mr. Eaton -- would you like to speak to that, Mr. Eaton?

11 BOARD MEMBER EATON: No, I think Senator Roberti
12 laid it out quite concisely.

13 CHAIRPERSON MOULTON-PATTERSON: So I hope in the
14 future we'll have that, and I agree it's taken a long
15 time.

16 BOARD MEMBER EATON: The one thing is, just so
17 we're clear, so this green procurement policy you're
18 proposing a range, because the direction that was
19 originally given was the 15 points to begin with. I don't
20 believe it was a range, and I think that is spelled out as
21 well. So do you need clarification that it's 15 points
22 and no range?

23 DEPUTY DIRECTOR JORDAN: Well, that's why we
24 brought the item before you today. Actually, what was
25 discussed in '99 was 15 percent. And because it does

1 vary, we chose to bring it forward in agreement with the
2 program.

3 What was not in agreement was how it impacts the
4 actual grant subscription or grant administration as far
5 as the grantees, and that I believe that there are certain
6 programs from the discussions because we've had several
7 months worth of discussions that because of that impact we
8 do prefer that there is a range instead of an automatic 15
9 percent and simply just, sort of, take the first steps in
10 making sure that it can be accomplished by some of the
11 smaller grant programs.

12 BOARD MEMBER EATON: Give an example of some
13 impacts, because those would have been things we would
14 have liked to have known. I mean, saying that you didn't
15 have enough applicants, but anytime you put a criteria,
16 look at all the other criteria that you adhere to. You're
17 going to have applicants that are out -- the whole idea of
18 the policy that was put there is because there's two sides
19 to this equation.

20 There's the waste side and disposal and
21 diversion. There's also the side of procurement, which
22 then encourages everyone, all of our stakeholders, all of
23 our cities and counties, everyone else, environmental,
24 business communities, purchase those goods, so there's a
25 market. The markets have been the real problem. So that

1 was one of the sort of penal provisions put in there, so
2 that people would have at least a little bite to get them
3 moving and the carrot and a stick.

4 Now, we've just added more to it. And, yes, it
5 is difficult getting money sometimes out the door, I grant
6 you that. What the problem happens to be is that there
7 are moneys available, and that those organizations just
8 have to make a good faith effort to get a green
9 procurement policy.

10 And who are they?

11 Sometimes the people who get the most dollars and
12 cents are the worst abusers, regardless of size. And
13 that's really what we should ferret out here when you put
14 these kinds of hurdles in. You want the money, you want
15 to do the right thing, this is the way you do it.

16 So I mean, I don't see that there has been a
17 tremendous impact of money going out. I mean, we've
18 always had a number of scoring criteria and I haven't seen
19 any. The only one that's undersubscribed, I believe, has
20 been one in the recent months that's come before us.

21 CHAIRPERSON MOULTON-PATTERSON: I know Mr. Medina
22 and then Mr. Paparian want to speak, but I just wanted to
23 say on that point, I think even if it means they don't get
24 a grant, we need to send that strong message.

25 Mr. Medina.

1 BOARD MEMBER MEDINA: Thank you, Madam Chair.

2 And I thought that the Senator's point was well taken.

3 And I had a question in this follow-up to Mr. Eaton, and

4 that was whether what is being produced here was

5 consistent with previous board policy on green

6 procurement? And also could we get a written copy of what

7 the previous board policy on what green procurement was?

8 And then further, I'm confident that our new

9 director, Mr. Leary, will see to it that implemented board
10 policy is executed posthaste.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

12 Medina.

13 Mr. Paparian and then Senator Roberti.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

15 Looking at the resolution itself, I think I have a

16 suggestion that I hope will take us forward.

17 On the revised resolution on the back page of

18 that, Item C refers to green procurement and the

19 percentage value. My suggestion would be to revise that

20 and have it be not just 15 percent of the general review

21 scoring criteria, but 15 percent of the total points

22 available, including general review and program criteria.

23 I think that would actually evaluate more

24 appropriately and more consistently with what the Board

25 suggests. So that the C would read "The evaluation

1 criteria and evidence of a green procurement policy shall
2 be valued at 15 percent of the total points available,
3 including general review and program criteria. Any
4 deviation of the 15 percent evaluation would require Board
5 approval at the time of the general review scoring
6 criteria and evaluation process agenda item is presented."

7 BOARD MEMBER EATON: But, at that point, you
8 could still do what has been the past practice and not get
9 anything in the application process as long as you had a
10 green procurement policy after the fact, and you had 15
11 percent of your total. That's exactly what they're
12 proposing.

13 BOARD MEMBER PAPARIAN: I'm very open to fixing
14 that.

15 BOARD MEMBER EATON: I hear you. I understand
16 where you're trying to go, but the total points goes to
17 using the hurdle, the application process plus what
18 happens after the fact. The points that were raised this
19 morning by the Senator and the Chair and myself and others
20 is that it also has to be part of the hurdle to begin with
21 to get into the gate.

22 And so I think you're on the right track, we just
23 have to find the right language that puts it in place so
24 that we don't get a situation wherein we put something in
25 a resolution which you can meet that percentage, but still

1 not have to go through the hurdle of having the green
2 procurement policy at the front end.

3 So I think you're going there. The total points,
4 see there's an A and a B here if I understand the
5 contract. The A part is the general use scoring criteria
6 and then afterwards there's the actual award. With 15
7 points, you could meet the actual award, but not have
8 anything to do with the scoring criteria and still be
9 eligible without -- with a green procurement policy.

10 So I know that that's not what you want to do,
11 but that's how we've got to try and simplify it a little
12 bit.

13 BOARD MEMBER PAPARIAN: So what I would suggest
14 solves part of the problem. You're comfortable with
15 what --

16 BOARD MEMBER EATON: Absolutely, it's there.
17 There's not a question. We've got to solve the front-end
18 of the equation and that's what the issues that have been
19 raised are, and that would be the 15 percent.

20 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
21 Madam Chair, may I make a comment here?

22 CHAIRPERSON MOULTON-PATTERSON: Yes.

23 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
24 Martha Gildart with the Special Waste Division. In the
25 grant items that we've brought forward for the Board

1 consideration with the criteria, the general criteria have
2 always had points assigned program by program to be
3 tailored to the needs of that program. I think Mr. Eaton
4 referred to one of the grants that was brought forward
5 this year that was undersubscribed, and that is a waste
6 tire enforcement grant as well as the waste tire cleanup
7 grants.

8 We find it difficult sometimes to bring in, you
9 know, applicants, many of them expressed concerns over the
10 difficulty of completing the applications.

11 We've also in past years, but not this year, had
12 our playground accessibility grant, which was the exact
13 opposite problem where there was a tremendously high
14 subscription rate, but the applicants themselves were
15 often members of like PTAs, parent associations,
16 individuals who either don't have access to a governmental
17 entity that can make a decision and vote on adopting a
18 green procurement policy or the cleanup grants we've given
19 to counties and entities to solve an immediate problem.

20 So the staff is assigning a variety of point
21 levels to that criterion to help those applications, those
22 grant programs fit better. I think we have some real
23 concerns if we had a set, you know, 15 percent of the
24 total point scores.

25 What that typically means, most of our grants

1 have a 70 percent pass/fail cutoff, that that would leave
2 only another 15 percent of any errors in any of their
3 need, their budget, their other, indian tribes, border
4 organizations, they'd just have to lose 15 percent in
5 those other categories to fail. And I think the idea of
6 having a variety of points assigned to this criterion
7 allows us to reflect the different needs of the different
8 programs.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
10 Gildart.

11 Senator Roberti was next.

12 BOARD MEMBER ROBERTI: You know, not just to
13 belabor a past point, because this current debate is very
14 important. However, what we're currently discussing is
15 the only legitimate bone of contention that could possibly
16 have arisen as to any confusion as to what the Board's
17 directive was.

18 And while I want to say that is simply because
19 these points should have been therefore brought to us as
20 soon as there was a distinction that had to be made as
21 between, I guess, the general criterion and the extra
22 points that are added on afterwards. And I don't
23 understand why it took so long to get that point, which
24 Ms. Gildart is now explaining to us, before the Board.

25 And I'm just raising it because in the future, I

1 mean, when a problem arises on the interpretation of how
2 an award is going to be made, it should come to us a lot
3 quicker. We've had two years of grants in which, you
4 know, everybody blithely, I'm sure, believed that the
5 award was being implemented, but obviously there was this
6 small point that wasn't brought to the Board for directive
7 intention.

8 And I understand the importance of it, but I just
9 am confused why Ms. Gildart's point, which is important,
10 wasn't brought to us 20 months ago rather than now. I'm
11 so glad the discussion is taking place. I'm almost
12 willing to vote for it in the general criteria or as an
13 award just, I mean just to get the thing off on the road,
14 but I think we should decide it today.

15 BOARD MEMBER JONES: Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: Thanks, Madam Chair. I have
18 no problem with this agenda item the way it's coming
19 forward. I think one thing that we have to -- I think
20 what Ms. Gildart brought up, every time we see a scope of
21 work, I mean this has not been a mystery, every scope of
22 work that has come forward at this Board since I've been
23 here includes a scoring criteria.

24 And there were some discussions on some of these
25 items. Remember we took it from five points up to ten

1 points or something on one, because it needed to have more
2 of an impact. There were others that we left alone.
3 There were some that because the total score could only be
4 100 as opposed to 120, there was an issue with what the
5 numbers should be.

6 So I think we've seen every criteria of every
7 grant of every contract that's ever come out, and we've
8 approved them. So clearly it was not a mystery.

9 But I'm what I'm worried about is to arbitrarily
10 say 15 percent on some -- while a green procurement policy
11 is important, and I've supported it all the way through,
12 we've got to look at what these grants are. If you get
13 someone that's going to haul tires from a cleanup spot,
14 the fact that that person buys recycled paper is important
15 to an overall issue. But what other stuff would that
16 vendor buy that could be listed, with the exception of all
17 of this equipment which is made out of metal, which is
18 already recycled?

19 So do you give them credit for a tub grinder or a
20 tire shredder that weighs 45,000 pounds as green
21 procurement. It's all recycled steel.

22 And all I'm saying is I think we need to have the
23 ability and staff needs to have the ability to make sure
24 that -- I always liked our green procurement policy
25 because it had a little variation.

1 If we need someone with good expertise to do a
2 job and they don't have a green procurement policy and
3 we're going to settle for the third or fourth person on
4 the rung, because they've got a full-blown green
5 procurement policy, because we've decided that everything
6 has to be 15 percent, we need to look at that. I mean, 15
7 percent of 100 is 15 points.

8 I'd rather make sure that there was some
9 flexibility there, that we're getting qualified people, as
10 opposed to those people that are just buying certain
11 products or including metal, because it's clearly
12 recycled.

13 BOARD MEMBER EATON: But Mr. Jones, that belays
14 the fact that if that were the case, then you couldn't
15 meet the second criteria by which our staff was applying
16 it, that somehow they had a green procurement policy after
17 the fact. So that wouldn't solve your concern. And it is
18 valid in some of the programs.

19 But if you say that you can't, sort of, eliminate
20 them at the front end, but you can approve them at the
21 back end, if they don't have any policy at the back end,
22 then they shouldn't get the contract in the first place
23 because they were in violation of the grant, so you don't
24 solve it.

25 BOARD MEMBER JONES: I don't have a problem with

1 you striking that they put in afterwards, but I want us to
2 understand that not all grants are 100 points, some are
3 70, some are 80, some are 90.

4 BOARD MEMBER EATON: And what I think is, at
5 least from my preference, is that it's incumbent upon -- I
6 mean where applicable the staff apply that criteria. And
7 if not, then it ought to be brought to the Board's
8 attention why it can't be done in a particular grant
9 program.

10 But as a general rule, it should be applied, and
11 if there is a problem, you know, there are certain of
12 those grants that it can be, then it should be the Board
13 who can at least come up with some sort of criteria or
14 alternative.

15 For instance, if it's tires, then perhaps maybe
16 we award more points for using it in a diversionary role
17 and not burying the tires. But that is a form of somehow,
18 you know, in keeping with our hierarchy. And that's the
19 problem I think that we find with the green procurement
20 and the others and it's so slow and we've got this going
21 around.

22 So I think the general rule is green procurement.
23 In the absence of that, they have to bring it forward and
24 make a justification in the affirmative as to why it can't
25 include it in the criteria. And that's at the front end.

1 That's what I'm trying to get at.

2 BOARD MEMBER JONES: I've got no problems with
3 that.

4 CHAIRPERSON MOULTON-PATTERSON: I Agree.
5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
7 Mr. Jones, I think, if you look at the language in C, I
8 think it may address the concerns that you've raised and
9 it also, at the same time, I think, may address what
10 Senator Roberti has raised.

11 The second sentence here says, "Any deviation
12 from the 15 percent variation would require Board approval
13 at the time that the general review scoring criterion
14 evaluation process agenda item is presented."

15 If there was a legitimate reason, it would
16 require board action which takes care of Senator Roberti's
17 concern that this sort of decision making should be made
18 at the Board level. If there's a legitimate reason for
19 the deviation or alteration, I think the Board could do
20 that and I think that would address your concern.

21 BOARD MEMBER JONES: Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

23 BOARD MEMBER JONES: I agree with you. I have no
24 problem with giving the staff the direction that all these
25 grants should include 15 percent, unless there is an

1 issue, and they bring it forward. All I'm saying is,
2 while they may not have followed the 15 percent, every
3 grant or contract that has gone out from this Board as
4 long as I've been here, has had a scoring criteria
5 attached to it. And those numbers have changed.

6 So I have no problem with setting that as a
7 guideline, and just having them highlight when there needs
8 to be a change, that doesn't bother me. And I have no
9 problem with Mr. Eaton's issue of scratch the -- they've
10 got to have a policy in place on the front end as opposed
11 to after the contract has been let, is that basically --

12 BOARD MEMBER EATON: No. I mean that's after the
13 fact. That's the problem we're trying to get at is after
14 the fact. I'm just saying you said well, if you eliminate
15 the front, we may not get the best contractor. Well, the
16 policy has been is that after the fact we've awarded it,
17 they still don't have a policy and that's in violation of
18 our own grant criteria.

19 So now we're in a situation where we may have
20 granted monies that are not in keeping with our own
21 policy. I think perhaps maybe I can help suggest on this
22 issue of green procurement and leave the other issues in
23 other sections, is that maybe what we do is that the issue
24 is that we can award 15 percent on the front end of the
25 application process, and if there is a circumstance where

1 green procurement policy is not applicable, then there
2 needs to be an explanation on that application. And then
3 at the time that it is brought forward to the Board, we
4 would have the opportunity to view that in that context.

5 And that's really what you are talking about,
6 you're talking about context. And then afterwards, I
7 think Mr. Paparian's point of 15 -- I think 15, was it,
8 percent of the total points thereafter would then be
9 applicable on that second phase in the award. And
10 therefore we would have the screening process at the
11 beginning, which has some flexibility in it as well as the
12 subsequent Mr. Paparian talked about.

13 CHIEF COUNSEL TOBIAS: Madam Chair, may I ask a
14 question on that. I didn't quite understand Mr. Eaton.
15 Were you suggesting that those applications would come up
16 to the Board to have the Board look at the individual
17 applications as to why or why not they couldn't comply
18 with the green procurement.

19 BOARD MEMBER EATON: First, they have to come to
20 us in the beginning, do they not, before they're ever sent
21 out with the scoring?

22 CHIEF COUNSEL TOBIAS: And the criteria, right.

23 BOARD MEMBER EATON: So that's what I'm saying.
24 You can't do it subsequent to the fact, I understand that.
25 But at the beginning when they come to us and they tell us

1 here's going to be the scoring criteria for this grant and
2 this grant, and this grant, that as a general -- and the
3 criteria for green procurement at 15 percent is
4 applicable. Thereafter, the award that's suggested is 15
5 points of the total allowable. But if for some reason
6 that the grant cannot contain this or any other provision,
7 don't forget we have other provisions as well.

8 We could have a rural grant program that may or
9 may not be able to go to southern California, so that's
10 another issue that you come in with flexibility that you
11 just build into those programs.

12 But I think the point that the senator was
13 raising, and I agree with him on this, is we, as a board,
14 have to know that at the time it's happening, not six
15 months, a year or a year and a half after that fact. That
16 doesn't help us in the situation.

17 So this would be a way to bring to the Board's
18 attention almost like we do when we seek cost recovery
19 under our 2136 Program and staff has to come forward and
20 justify why we're waiving that provision for cost
21 recovery. And this would be a situation where the staff
22 would have to say we don't believe green procurement is
23 possible or obtainable in these circumstances because of
24 the following reasons. And then the Board would decide
25 and the grant could go forward. I think that's where

1 we're all trying to get to.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

3 BOARD MEMBER MEDINA: Madam Chair, as much as I
4 would like to see this voted on this morning, I'd like to
5 recommend that we defer it until the afternoon such that
6 we can get a copy of the existing green procurement
7 policy, and also so that we can work out some appropriate
8 language on C under this resolution.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. So if it's
10 agreeable with everyone, we'll trail 7 till this
11 afternoon.

12 BOARD MEMBER EATON: Madam Chair, while we're
13 doing that, we might as well get rid of the other couple
14 remaining issues on 7 in case there's any of that.

15 The other issue I wanted to bring was tied
16 scores. And I want to bring to the Board's attention,
17 we've had those situations and I keep going back, but we
18 had the Santa Cruz issue if you remember, where we had
19 several awards. Now, those weren't ties.

20 I believe it's incumbent upon we, as board
21 members and policymakers here, to make the determination
22 if there's ties and see what we can do to get the monies,
23 the two entities or three entities that are tied,
24 irrespective of that. I mean, I think that's our role.

25 And further more, if we need to go back to the

1 budget subcommittee and say we feel these are strong, find
2 the money, that's what we ought to be able to do, instead
3 of having a random, sort of, selection. I mean, you
4 know -- but that would be just a suggestion that we keep
5 the policy that in case of a tie, it should come to the
6 Board and the Board will seek to do what it can do to fund
7 it.

8 CHAIRPERSON MOULTON-PATTERSON: And that can be
9 in our language.

10 BOARD MEMBER EATON: Yeah, I think so. I mean,
11 it was an alternative to determine tied scores receive an
12 award or both. I mean that's kind of how we've always
13 tried to find money to do those. I mean, they may be
14 programs that are time limits.

15 CHAIRPERSON MOULTON-PATTERSON: Maybe you can
16 work on some language on that.

17 I did want to say before we trail it, you know,
18 the staff has really been good about letting us know. A
19 good example of that is the CalPoly project. They
20 originally were going to use green materials and staff let
21 us know, alerted us to the fact that they weren't using
22 it. So the subcommittee recommended that we say no to the
23 grants. So we do appreciate that.

24 We will trail 7 until this afternoon. And thank
25 you, Ms. Avila.

1 BOARD MEMBER EATON: Just so there's no surprise,
2 Madam Chair, the same thing if we could get flexibility
3 into the geographic distribution in case some of those
4 awards deal with rural our farm and ranch type programs,
5 there may not be a geographic distribution that's
6 appropriate, so that we can get them all around. And I
7 think we can get that as a screening criteria that would
8 not be injurious to what the intent is here, but rather
9 one that, if it's applicable, sometimes a farm and ranch
10 may or may not apply.

11 CHAIRPERSON MOULTON-PATTERSON: Okay, if that's
12 agreeable to everyone, we'll take this up later this
13 afternoon and hopefully we can work this out.

14 Okay, we're going to go on to Mr. Schiavo now,
15 Diversion, Planning and Local Assistance. And 8 and 9
16 we're on consent, so that takes us to number 10.

17 Mr. Schiavo.

18 DEPUTY DIRECTOR SCHIAVO: Pat Schiavo of the
19 Diversion, Planning and Local Assistance Division. And
20 Item number 10 is Consideration of Staff Recommendation on
21 the Completion of Compliance Order IWM BR99-04, and
22 Consideration of the 1997/98 Biennial Review Findings for
23 the Source Reduction and Recycling Element and Household
24 Hazardous Waste Element for the Yuba/Sutter Regional Waste
25 Management Authority.

1 And this item will be presented by Kyle Pogue.

2 MR. POGUE: Good morning, Madam Chair and Board
3 Members. I'm Kyle Pogue with the Office of Local
4 Assistance.

5 In June of 1999, the Yuba/Sutter Regional Waste
6 Management Authority was issued a compliance order to
7 implement additional or expand existing source reduction
8 and recycling programs.

9 Authority and Board staff then worked together
10 and established a workplan identifying the following
11 programs.

12 One, a weekly curbside yard waste program; two, a
13 variable can rate structure; three, a construction and
14 demolition sort line at the materials recovery facility or
15 similar program; four, a second corrugated commercial
16 cardboard collection route; five, waste audits at the five
17 largest commercial generators; and six, a buy-recycled
18 procurement policy.

19 The Authority successfully implemented all of
20 those programs. Additionally, I would like to note that
21 the authority also implemented a commingled curbside
22 recycling program as well.

23 The transition to implementing these new source
24 reduction recycling programs has been very complex and
25 will provide an excellent model for other jurisdictions to

1 follow. I would like to thank the YSRWMA staff for their
2 dedication to putting these programs in place.

3 Therefore, it is staff's recommendation that the
4 Board remove the Yuba/Sutter Regional Waste Management
5 Authority from compliance order IWMA BR99-04 and accept
6 the 1997/1998 biennial review findings.

7 I am available to answer any questions you may
8 have. And additionally, representatives from the YSRWMA
9 are available as well.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
12 I had the opportunity to go up and see some of their
13 programs a few weeks ago. And as is noted in the item on
14 page 10-3, it actually implemented weekly curbside
15 commingled recycled program, which was not included in
16 their original plan. And I think that that's something
17 that we ought to note and really congratulate the locality
18 on in going above and beyond what was expected of them in
19 their original plan.

20 The other thing I noticed up there, which I was
21 pleased to see was a good partnership between their hauler
22 and the waste management authority, while at the same time
23 an appropriate level of tension with the LEA, which I
24 think is what we want to see in situations like this.

25 So if there's no other questions, I'd be happy to

1 move the item.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Any other
3 questions?

4 Okay, would you make a motion, please.

5 BOARD MEMBER PAPARIAN: I'll move Resolution
6 2001-443 regarding the Yuba/Sutter Regional Waste
7 Management Authority.

8 BOARD MEMBER MEDINA: Second.

9 CHAIRPERSON MOULTON-PATTERSON: We have a motion
10 by Mr. Paparian, seconded by Mr. Medina to approve
11 Resolution 2001-443.

12 Please call the roll.

13 SECRETARY VILLA: Eaton?

14 BOARD MEMBER EATON: Aye.

15 SECRETARY VILLA: Jones?

16 BOARD MEMBER JONES: Aye.

17 SECRETARY VILLA: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 SECRETARY VILLA: Paparian?

20 BOARD MEMBER PAPARIAN: Aye.

21 SECRETARY VILLA: Roberti?

22 BOARD MEMBER ROBERTI: Aye.

23 SECRETARY VILLA: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 Motion approved.

1 Thank you Mr. Pogue.

2 Number 12.

3 DEPUTY DIRECTOR SCHIAVO: Item number 11 is
4 consideration of --

5 CHAIRPERSON MOULTON-PATTERSON: Oh, 11, excuse
6 me.

7 DEPUTY DIRECTOR SCHIAVO: -- is Consideration of
8 Staff Recommendation on the Amendment of the Yuba/Sutter
9 Regional Waste Management Authority's Regional Agency
10 Agreement.

11 And this item will also be presented by Kyle
12 Pogue.

13 MR. POGUE: Once again Kyle Pogue with the Office
14 of Local Assistance.

15 In 1996, the Board approved the Regional Agency
16 Formation Agreement for the Yuba/Sutter Regional Waste
17 Management Authority.

18 This region included Yuba county, Sutter county,
19 the cities of Live Oak, Marysville, Wheatland, Yuba City
20 and also the City of Gridley located in Butte County.

21 Effective July 1, 2001 this Regional Agency
22 Formation Agreement was amended to remove the City of
23 Gridley from the regional agency.

24 The decision to move Gridley from the regional
25 agency was done for programmatic and operational measures

1 that made better sense to all parties involved.

2 Recently, the City of Gridley elected to contract
3 with a different waste hauler than the one utilized by the
4 rest of the regional agency. Gridley's waste and
5 recycling materials will also flow into Butte County and
6 will no longer go to the Marysville Materials Recovery
7 Facility for processing.

8 Staff recommends that the Board approve the
9 amended Regional Agency Formation Agreement for the
10 Yuba/Sutter Regional Waste Management Authority.

11 That concludes my presentation. I am available
12 for questions and our representatives are still here.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Mr. Paparian, did you want to make that motion?

15 BOARD MEMBER PAPARIAN: Sure. Madam Chair, I'll
16 move Resolution 2001-444 regarding an amendment of the
17 Yuba/Sutter Regional Waste Management Authority's Regional
18 Agency Agreement.

19 BOARD MEMBER JONES: Second.

20 CHAIRPERSON MOULTON-PATTERSON: Okay, we have a
21 motion by Mr. Paparian, seconded by Mr. Jones to approve
22 Resolution 2001-444.

23 Please call the roll.

24 SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY VILLA: Jones?
2 BOARD MEMBER JONES: Aye.
3 SECRETARY VILLA: Medina?
4 BOARD MEMBER MEDINA: Aye.
5 SECRETARY VILLA: Paparian?
6 BOARD MEMBER PAPARIAN: Aye.
7 SECRETARY VILLA: Roberti?
8 BOARD MEMBER ROBERTI: Aye.
9 SECRETARY VILLA: Moulton-Patterson?
10 CHAIRPERSON MOULTON-PATTERSON: Aye.
11 At this time, I'd like to take a ten-minute
12 break, please.
13 (Thereupon a brief recess was taken.)
14 CHAIRPERSON MOULTON-PATTERSON: I'd like to go
15 ahead and get started. Before we go to ex partes, I would
16 like to introduce Bruce Reeves, Deputy Attorney General,
17 welcome, filling in for Ms. Waltz and we appreciate you
18 being here.
19 Thank you.
20 Mr. Eaton, do you have any ex partes?
21 BOARD MEMBER EATON: None to report, Madam Chair.
22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?
23 BOARD MEMBER JONES: No, ma'am.
24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?
25 BOARD MEMBER MEDINA: None to report.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

2 BOARD MEMBER PAPARIAN: A brief conversation with
3 the Yuba/Sutter representatives following up on that
4 agenda item.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.
6 Senator Roberti?

7 BOARD MEMBER ROBERTI: No ex partes.

8 CHAIRPERSON MOULTON-PATTERSON: I have none.

9 Okay. Did we leave -- we're on 12, yes, number
10 12, back to Mr. Schiavo.

11 DEPUTY DIRECTOR SCHIAVO: Item number 12 is
12 Consideration of Staff Recommendation to Change the Base
13 Year to 1999 for the Previously Approved Source Reduction
14 and recycling element for the City of Rancho Palos Verdes,
15 Los Angeles county.

16 And this item will be presented by Primitivo
17 Nunez who's from our southern California office.

18 MR. NUNEZ: Good morning, Madam Chair --

19 CHAIRPERSON MOULTON-PATTERSON: Good morning.

20 MR. NUNEZ: -- and Board Members. My name is
21 Primitivo Nunez of the Los Angeles local assistance
22 office.

23 The item is prepared in response to the City of
24 Rancho Palos Verdes' request to change the base year from
25 1990 to 1999.

1 To estimate waste generation in 1999, the City
2 used data from the Board's disposal reporting system and
3 collected diversion and information from the following
4 activities: Residential curbside collection, business
5 waste audit surveys, grass cycling, processing of
6 commercial sector recycling, diversion of demolition
7 materials, city road construction and public area
8 landscaping diversion.

9 The city is primarily a residential community.
10 However, remodeling and construction activities in the
11 residential sector and construction in the commercial
12 sector were reported by the commercial haulers, resulting
13 in 52 percent residential and 48 percent commercial
14 generation.

15 In the study, the City used DRS disposal data.
16 The diversion study does not contain statistical
17 extrapolation of diversion. Source reduction is included
18 in the generation.

19 Staff has visited the City and contacted the top
20 ten audited businesses to verify study information. The
21 audit verifications resulted in a 1,207 ton deduction.
22 Staff is recommending the Board approve the proposed new
23 base year according to the staff recommended rate of 31
24 percent.

25 Since 1999, the City has expanded its residential

1 curbside collection program, government source reduction
2 program and commercial on-site pickup. The implementation
3 of the programs has resulted in a decrease in disposal
4 tonnage during the year 2000. The City will claim
5 transformation credit in 2000 also. The result of these
6 improvements will significantly improve the City's 2000
7 diversion rate.

8 City representatives are present and available to
9 answer any questions. This concludes my presentation.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any
11 questions?

12 Senator Roberti.

13 BOARD MEMBER ROBERTI: I'll make a motion. Madam
14 Chair, I'd like to move adoption of Resolution 2001-445.

15 BOARD MEMBER JONES: Second.

16 CHAIRPERSON MOULTON-PATTERSON: We have a motion
17 by Senator Roberti seconded by Mr. Jones to approve
18 resolution 2001-445.

19 Please call the roll.

20 SECRETARY VILLA: Eaton?

21 BOARD MEMBER EATON: Aye.

22 SECRETARY VILLA: Jones?

23 BOARD MEMBER JONES: Aye.

24 SECRETARY VILLA: Medina?

25 BOARD MEMBER MEDINA: Aye.

1 SECRETARY VILLA: Paparian?

2 BOARD MEMBER PAPARIAN: Aye.

3 SECRETARY VILLA: Roberti?

4 BOARD MEMBER ROBERTI: Aye.

5 SECRETARY VILLA: Moulton-Patterson?

6 CHAIRPERSON MOULTON-PATTERSON: Aye.

7 Thank you, Mr. Nunez.

8 Okay item number 13.

9 DEPUTY DIRECTOR SCHIAVO: Item number 13 is
10 Consideration of Staff Recommendation to Change the Base
11 Year to 1999 for the Previously Approved Source Reduction
12 and Recycling Element for the City of Madera, Madera
13 County.

14 This item will be presented by Steve SoRelle.

15 MR. SORELLE: Good morning, Madam Chair and Board
16 Members. My name is Steve SoRelle with the Office of
17 Local Assistance. The City of Madera contracted with a
18 consultant to measure their 1999 diversion rate because
19 their original base year was not reflective of their
20 program implementation efforts.

21 The City originally submitted a new base year
22 change request with a diversion rate of 62 percent. As
23 part of the base year study review, Board staff conducted
24 a detailed site visit and carried out additional research
25 into the diversion activities.

1 Of the over 57,000 tons of diversion claimed in
2 the entire study, Board staff reviewed 52,000 tons of
3 claimed diversion. The City has been cooperative in their
4 efforts to work with board staff. However, late last week
5 we had conversations with the consultant and continued to
6 disagree on the deductions as presented in the agenda
7 item.

8 Deductions that are recommended include pallet
9 reuse tonnage was deductions -- excuse me deducted where
10 pallets were not owned by the businesses, were not part of
11 a specific effort to return and reuse pallets or were
12 attributable to other businesses or jurisdictions.

13 Asphalt and concrete recycling totals were
14 reduced when businesses reported smaller amounts to Board
15 staff. Grass cycling totals were adjusted after staff
16 conducted measurements at four schools, confirmed totals
17 with golf courses and adjusted the conversion factor.

18 One facility's plastics scrap recycling was
19 deducted when it was discovered that the business had
20 never disposed of the plastic scrap. Thrift store, garage
21 sale and flea market totals were also deducted.

22 In addition to these deductions, some other minor
23 reductions were made. In a few cases tonnages were
24 increased when Board staff discovered additional diversion
25 activity or higher confirmed totals than reported.

1 Boar staff has determined that the information
2 has been adequately documented. Based on this
3 information, Board staff is requesting the Board approve a
4 diversion rate of 50 percent.

5 Staff who conducted the on-site review are here,
6 and representatives from the City are present to answer
7 any questions.

8 This concludes my presentation.

9 Thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Any questions
11 before we go to speakers?

12 Ronald Frye, followed by Michael Brown.

13 MR. FRYE: Good morning. My name is Ron Frye. I
14 am representing the City of Madera. The City recommends
15 to your board that you adopt your staff's recommendation.
16 We will be talking to your staff later on concerning a few
17 minor things we think about.

18 Personally, I would like to thank Carolyn
19 Sullivan, Steve SoRelle and Cara Morgan of your staff.
20 They did so much hard work on the City of Madera. And I'm
21 also a contractor in the City of Madera, and I know what
22 they went through and I want to thank them very much.

23 Thank you.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
25 Frye.

1 Michael Brown.

2 MR. BROWN: Thank you, Madam Chair and Members of
3 the Board. My name is Michael Brown and I am a
4 representative of the consulting firm that did the work.

5 I think rather than make a presentation, at this
6 time, I'd just like you to know that we are in general
7 agreement with the work done by your staff. There are few
8 things that we'd like to continue discussing with them,
9 but at this time we're satisfied with staff's
10 recommendation.

11 If there are any questions that the Board has
12 about specific items where we're not quite in agreement,
13 I'd be happy to answer those. I do have a Powerpoint
14 presentation, I can go into as much detail as you want or
15 don't want.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones has a
17 question, Mr. Brown.

18 BOARD MEMBER JONES: Thank you. Mr. Brown and
19 Mr. Frye or any other representatives from the City, it
20 was my understanding that there are two or three items
21 that are -- well, actually I got a call from Mr. Brown, I
22 put it on my ex partes last week or two weeks ago whenever
23 he called, that they were in general agreement but they
24 wanted the caveat that there were some issues that still
25 needed to be discovered or decided between the consultant

1 and our staff.

2 And at that time, I said well pull the item. I
3 mean if you're not going to agree, pull the item. And I
4 said that for a very specific reason. Our staff went out
5 and did the audits and used the information that was
6 available. There's 23,000 tons of material that was in
7 question, and if we're going to, you know, talk about
8 accepting this rate, then we need to either accept the
9 staff's rate or deny the staff's rate.

10 I mean, I think to sit there and say go ahead and
11 accept it, but we still think there are some mistakes, we
12 ought to figure out what the mistakes are or where the
13 differences are, because the relationship between
14 consultants and this Board and the cities is critical to
15 the ultimate delivery of information to this Board who by
16 law has got to use the best available information -- or
17 the best information available to make a determination
18 that somebody is in compliance.

19 So I guess I would like to know that, I've heard
20 from Mr. Fry and from you, that we're going to go ahead
21 and accept the staff's recommendation, and there's still
22 some issues. Are we going to accept the staff's
23 recommendation or are we going to accept the staff's
24 recommendation with a caveat?

25 MR. BROWN: We're requesting that the Board

1 accept the staff's recommendation as is, with no caveat.

2 BOARD MEMBER JONES: Thank you.

3 MR. BROWN: It is our understanding -- let's
4 leave it at that.

5 BOARD MEMBER JONES: Well, and I don't want to
6 say don't keep working with the staff. Believe me, this
7 Board completely, and our staff, wants to work with the
8 different jurisdictions. So the items that I was told
9 that were still in question only came up to, I don't know,
10 4,000 or 5,000 tons out of 23,000.

11 So I have no problem with making a motion to
12 accept this, as long as there's no caveats, because I
13 think it's a bad precedent to set. That doesn't mean that
14 you don't have the ability to go back and redo a base
15 year.

16 MR. BROWN: Thank you. That's our understanding.
17 And it's on that basis that we respectfully request that
18 you accept the staff's recommendation.

19 BOARD MEMBER JONES: Thanks, Mr. Brown. I
20 appreciate it.

21 Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Yes.

23 I'm sorry, Mr. Eaton.

24 BOARD MEMBER EATON: Madam Chair, just a point of
25 in general. Perhaps when we find these situations

1 wherein, and they're becoming increasingly more frequent,
2 where we have found discrepancies of this magnitude, I
3 think we ought to think about considering an alternative
4 process by which these jurisdictions go into a separate
5 pool by which we can take a closer look at the kinds of
6 things if we're catching them.

7 I think it's unfortunate, but we really need to
8 take a second look at them and see if there's an
9 alternative track, and that's not only a stick, but there
10 also seems to be a carrot by which we can help them.

11 In this instance, I have not found any increased
12 program since 1997, yet they tell me that concrete
13 recycling has been going on since 1992. I find it hard to
14 believe that you can use that kind of recycling of
15 concrete and not have it show up in a previous 1997
16 diversion rate.

17 So I still think there's a lot left to be done
18 with this jurisdiction, but I would also like to think
19 about having Mr. Schiavo come back and give us an
20 alternative process by which jurisdictions of this nature
21 can be looked at with a different kind of eye and some
22 other things, so that we don't have to kind of go through
23 this time and time again.

24 Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Can you do that,

1 Mr. Schiavo?

2 DEPUTY DIRECTOR SCHIAVO: Yes.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 BOARD MEMBER PAPARIAN: Madam Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr.

6 Paparian.

7 BOARD MEMBER PAPARIAN: Just also to follow up.

8 I know it's a tremendous strain on our staff to go out and
9 double check a lot of the work that's been coming forward.
10 And you've been doing a good job of doing that and, you
11 know, finding where there are questionable numbers and
12 discrepancies and so forth, but I'd love to figure out a
13 way to have greater incentive for accuracy in the material
14 that's coming forward so that our staff isn't in the
15 position of having to go out and verify and find huge
16 discrepancies between the forwarded numbers and what they
17 believe is accurate.

18 So if we're going to come forward with any
19 suggestions, I'd like to also explore some of those
20 alternatives, and that might involve our legal office
21 providing us some input as well about what options and
22 alternatives we might have in the case of inaccuracies.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

24 Paparian.

25 So that's noted also.

1 Thank you.

2 BOARD MEMBER JONES: Madam Chair.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: I agree with my fellow board
5 members and just throw a suggestion out there, that when
6 we have these ones where they're in dispute, bring them to
7 the -- I mean, I'm going to throw this is to the
8 Chairwoman and ask her to think about the logistics and
9 how it would fit into the other Board Members' schedules.
10 But maybe we want to have a line by line, blow by blow of
11 this at the agenda review. That's what we used to use our
12 committees for. We can go through this and really get it
13 so that where there are issues, we can deal with the
14 issues. And then when the item comes to the Board, I
15 mean, obviously people still have the right to voice
16 whatever opinion they want, but it may give us the ability
17 to spend some time, because those days usually go pretty
18 quick and we could go through this, and afford people the
19 opportunity.

20 It's just a suggestion to tag on to the other
21 board members.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you. I
23 think it's a good suggestion.

24 BOARD MEMBER JONES: With that, I want to
25 congratulate our staff and thank Mr. Brown and his

1 organization and the City for trying to get us to
2 completion of this.

3 And with that, considering there's no caveats, I
4 am going to move adoption of Resolution number 2001-446,
5 consideration of staff recommendation to change the base
6 year to 1999 from the previously approved source reduction
7 and recycling element for the City of Madera, Madera
8 County.

9 BOARD MEMBER MEDINA: Second.

10 CHAIRPERSON MOULTON-PATTERSON: We have a motion
11 by Mr. Jones seconded by Mr. Medina to approve Resolution
12 2001-446.

13 Please call the roll.

14 SECRETARY VILLA: Eaton?

15 BOARD MEMBER EATON: Abstain.

16 SECRETARY VILLA: Jones?

17 BOARD MEMBER JONES: Aye.

18 SECRETARY VILLA: Medina?

19 BOARD MEMBER MEDINA: Aye.

20 SECRETARY VILLA: Papanian?

21 BOARD MEMBER PAPANIAN: Aye.

22 SECRETARY VILLA: Roberti?

23 BOARD MEMBER ROBERTI: Aye.

24 SECRETARY VILLA: Moulton-Patterson?

25 CHAIRPERSON MOULTON-PATTERSON: Aye.

1 Okay, agenda Item number 14.

2 DEPUTY DIRECTOR SCHIAVO: Agenda Item 14 is
3 Consideration of Extending Compliance Order Due Dates for
4 the Following Jurisdictions that are Required to Complete
5 New Base Year Studies, and this includes Baldwin Park,
6 Clearlake, Compton, Gardena, La Canada Flintridge, La
7 Puente, La Verne and Torrance.

8 And making this presentation will be Jill
9 Simmons.

10 MR. SIMMONS: Thank you. Good morning, Madam
11 Chair and Members of the Board. My name is Jill Simmons
12 and I'm with the Office of Local Assistance.

13 At the briefing on October 16th, 2001, a
14 presentation was made regarding the jurisdictions that
15 were issued compliance orders during the 95/96 biennial
16 review process.

17 At this briefing, we stated that a consideration
18 item requesting time extensions would be brought forward
19 at the November board meeting. The item I am presenting
20 today is that request.

21 These eight jurisdictions represent the last of
22 the jurisdictions that need to provide additional
23 documentation to complete the requirements of their
24 compliance orders, and all are finishing base year
25 studies.

1 Each jurisdiction has indicated they require more
2 time to complete business surveys, correct data problems
3 and submit completed certification forms to the Board.

4 Seven jurisdictions Baldwin Park, Clearlake,
5 Compton, La Canada Flintridge, La Puente, La Verne and
6 Torrance have submitted extension requests to complete
7 their studies by December 31st, 2001.

8 And one jurisdiction, Gardena, has submitted an
9 extension request to complete their base year study by
10 January 31st, 2002.

11 Staff recommends the approval of the requests for
12 an extension for all of these jurisdictions. However, if
13 the jurisdictions do not submit complete base year studies
14 by the extension due date, then staff recommends the Board
15 immediately schedule a public hearing for those
16 jurisdictions failing to meet the requirements of the
17 compliance order.

18 This completes my presentation. Are there any
19 questions?

20 BOARD MEMBER ROBERTI: Madam Chair?

21 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti.

22 BOARD MEMBER ROBERTI: Just by curiosity, why --
23 Gardena has had quite a few problems, why are they taking
24 so much more time?

25 MR. SIMMONS: It's my understanding that they

1 need more time to complete more studies. And I don't know
2 if you have anything you want to add to that.

3 MR. POULSON: I'm Zane Poulson with the Office of
4 Local Assistance, working with Gardena. They need a
5 little bit more time. They are using extrapolation and
6 just a number of additional audits that they need, that
7 once they realized they needed more audits, they had
8 several that they need in that city in order to be able to
9 use the extrapolation methodology and that was the timing
10 that they thought that they could complete the audits and
11 then put it together into a study and submit that.

12 And also the calculations for extrapolation are a
13 little bit more difficult to do than the normal
14 calculations, so they figured they needed a little more
15 time also to complete the calculations.

16 BOARD MEMBER ROBERTI: I thought one reason why
17 jurisdictions used extrapolation was because it was easier
18 and cheaper. Now, you're telling me it takes more time.

19 MR. POULSON: Well, it's easier and cheaper than
20 doing every single business, but it still requires a
21 minimum number. And they realized that they were far
22 below that minimum number once the revised diversion study
23 guide was available, and so they are just taking -- need a
24 little bit more time to get that together, to do those
25 additional audits in order to put the study together.

1 And the calculations, even though, you know, you
2 have less studies they have to do, you still have a little
3 more work on the end of it putting the calculation part
4 together.

5 BOARD MEMBER ROBERTI: I mean maybe I'm making
6 this unfair on Gardena, but they always seem to be pulling
7 up the rear on the law and the jurisdiction of the Board.
8 I mean some jurisdictions are enthusiastic about waste
9 management stewardship and others are in the caboose,
10 whatever, and Gardena's been in the caboose ever since I
11 came on this Board.

12 BOARD MEMBER EATON: And my myself as well. If
13 you remember, we had long day sessions where we had
14 numerous individuals come up and testify about some of the
15 problems that arose. What's of concern to me, however, is
16 that many of these extensions have expired as early as
17 this past spring, so we're already six months in. What is
18 the legal status of the Board not having had the extension
19 expire and now bringing it forward today.

20 And I understand that there's a heavy workload,
21 but here's my point. We've had problems with
22 extrapolation. The Board has had numerous occasions and
23 said extrapolation, don't follow what's in the study
24 guide, the diversion study guide. And yet it seems like
25 they're using this as an excuse now to come back and do

1 some of those. We're within 30 days. I would think for
2 you as a staff to properly prepare and to prepare for us
3 as board members the packets, all this materials should be
4 in for December, so are we now going to schedule them into
5 next year after the extension, is that what we're talking
6 about. So that in some cases that we have nearly a year
7 has gone by, and we've gotten nothing, and that's not to
8 be critical of staff, but we are under the legislative,
9 you know, audit that talks about having teeth and whatever
10 and this is another instance where we're almost a year
11 after the fact of looking at some of these jurisdictions.

12 And so are we sure December 31st is the final
13 date, because if I go back through and look at some of the
14 past extensions, my understanding was is that those were
15 the final ones, and now we have another final one. So
16 what more can we get within the next 28 days for you to
17 properly prepare?

18 DEPUTY DIRECTOR SCHIAVO: Well, what we're hoping
19 for is that they complete -- in fact, they're working on
20 their samples. I wish representatives were here, but
21 they're supposed to be working on their samples, supposed
22 to be wrapping up the studies, supposed to be submitting a
23 completed study, not pieces of studies. And if they do
24 not by December 31st, as we show in the recommendation, we
25 want to take them for a compliance hearing.

1 BOARD MEMBER EATON: Would it be better if we
2 gave notice of the public hearing now, would that help you
3 give them -- light a little fire under one or two of the
4 jurisdictions which, you know, have been somewhat reticent
5 in the past?

6 I mean, isn't that the way to do it, because now
7 we're talking -- you probably won't get these scheduled
8 until sometime in spring; is that correct? Assuming they
9 get everything in by December 31st which is during the
10 Christmas and other holiday season, nothing is going to
11 happen then. You've got January, February and March.
12 You're probably looking at March by the time you get done
13 doing that work.

14 And in some cases, if you look at it, I can't
15 remember which one, that was granted until April,
16 Torrance, and March was Baldwin Park. So I mean a year
17 after, and at some point we've got to say, you know, if
18 you're having problems getting the information, maybe we
19 should just schedule the hearing and that seems to work
20 very well.

21 DEPUTY DIRECTOR SCHIAVO: It has worked very well
22 in the past. As you see it's one of the options that we
23 laid out for you. We laid out, you know, the three
24 options. The recommendation we went forward with is
25 giving them the extra month. If you want to move it up,

1 that's your choice and that's your call, but that is one
2 of the options we did lay out for you.

3 It only changes the time line by, you know,
4 again, about a month, month and a half, two and a half
5 months before the one particular jurisdiction.

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian, did
7 you wish to speak on this?

8 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
9 Most of it has been answered, but just to clean up the
10 resolution, my copy of the resolution shows Gardena
11 extension to January 31st, 2001. You probably want that
12 to read 2002, I would imagine.

13 MS. SIMMONS: Thank you.

14 BOARD MEMBER PAPARIAN: The question -- one of
15 the questions I have is when these folks come forward and
16 ask for an extension, what do we tell them about what's
17 going to happen if they don't meet their deadline? Do we
18 tell them that they're going to -- that they're likely to
19 go forward to a hearing with the possibility of fines, do
20 we tell them that the Board's history is that we grant
21 extensions.

22 My understanding of the history is every time a
23 request for an extension has come forward, we've granted
24 the extension. So then, in my mind, the question I have
25 is what's the point of the deadline if we're always going

1 to grant the extension?

2 DEPUTY DIRECTOR SCHIAVO: That's the reason if
3 you look at the language for the recommendation. We
4 typically put in language that says if they do not comply,
5 we will take them directly to the hearing. We typically
6 leave that part off of our Recommendation if they've had
7 multiple extensions.

8 This particular time we're informing them and
9 have informed them that if it's not in, it will be taken
10 directly to a hearing. So we've set up the process to go
11 directly to a hearing after December 31st if they don't
12 get completed packages in.

13 That's a distinction between what we've done in
14 the past and what we're looking at doing now.

15 BOARD MEMBER JONES: Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones and
17 then I'd like to speak.

18 BOARD MEMBER JONES: I'm sorry, Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: No, go ahead.

20 BOARD MEMBER JONES: I agree with making sure we
21 have a compliance order. I think one of the things that
22 came up when we talked about extrapolation being easy to
23 do, is it is easy to do what we did in our meetings with
24 dealing with extrapolations, is we said -- we put more
25 work on the verification that, in fact, the math wasn't

1 just funny math, and that they actually had to be able to
2 go back and prove that the numbers worked, identify the
3 outliers, the exceptions to the rule.

4 And if you remember at the briefing, I said make
5 sure they've included weekly debris box service,
6 compactors, which it always seemed to be excluded out of
7 every example of extrapolation I've seen. So that may be
8 part of it was the fact that we -- that the Board
9 conducted those workshop meetings trying to get
10 resolution, especially on this extrapolation.

11 I don't want to give them excuses, but I wanted
12 to answer one of the questions where it is easy to do
13 extrapolation. We made it so that they had to be able to
14 justify what it was, tell us, as staff and the Board how
15 they got to those numbers, because that's where all the
16 funny stuff happens.

17 BOARD MEMBER EATON: Well, I would agree with
18 you, Mr. Jones. Our workshops took place this past fall.
19 Some of these extensions and the things that they've been
20 working on were all done previous thereto. We hadn't even
21 taken up the whole idea of diversion yet.

22 Following up on Mr. Paparian's point, I'm sorry
23 Madam Chair, so when is the City of Gardena requesting the
24 extension to?

25 MR. SIMMONS: January 31st, 2002, so it's a month

1 later than the other seven.

2 CHAIRPERSON MOULTON-PATTERSON: Are you finished,
3 Mr. Eaton?

4 I just, you know, no one wants -- coming from
5 local government, no one wants to work with them more than
6 I do. But I just think it's terribly unfair that some of
7 these cities keep asking for extensions over and over. It
8 makes our deadlines meaningless, especially in the case of
9 Gardena. So what's the Board's pleasure, I guess?

10 BOARD MEMBER EATON: Madam Chair, I'll make an
11 alternative revised resolution 2001-447. That the eight
12 jurisdictions be granted, all of them or how many there
13 are, be granted one final extension to December 31st,
14 2001. And if they do not have complete material or
15 packets in by December 31st, they automatically go to a
16 hearing and there will be no -- in accordance with the
17 proper notice provision, right, because they change that
18 as well.

19 So now you're talk probably another 180 days
20 before you even bring them to hearing with a compliance
21 order under 2002, 2202, if you remember.

22 DEPUTY DIRECTOR SCHIAVO: Actually, the way we're
23 operating, it would be 30 days from the date.

24 BOARD MEMBER EATON: Right, and that they be
25 brought for a compliance hearing.

1 DEPUTY DIRECTOR SCHIAVO: Within 30 days.

2 BOARD MEMBER EATON: Within 30 days and there
3 would be no further extensions. I mean that's the only
4 way we solve this problem.

5 CHAIRPERSON MOULTON-PATTERSON: We have a motion
6 by Mr. Eaton. And Senator Roberti.

7 BOARD MEMBER ROBERTI: I want to second it and
8 speak to the motion. In thinking about it as the
9 discussion is going along, one year of extensions is long
10 enough. And I think it puts the Board into an element of
11 disrepute if we start going into the 13 month. So thank
12 you, Mr. Eaton, for offering this. I think, you know, the
13 axe has to come down at some point.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you. So we
15 have a motion by Mr. Eaton seconded by Senator Roberti to
16 approve Resolution 2001-447 with the change that they all
17 would have extensions until December 31st, is that it?

18 BOARD MEMBER EATON: Correct.

19 CHAIRPERSON MOULTON-PATTERSON: Please call the
20 roll.

21 SECRETARY VILLA: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY VILLA: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY VILLA: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY VILLA: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY VILLA: Roberti?

5 BOARD MEMBER ROBERTI: Aye.

6 SECRETARY VILLA: Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 Thank you, Ms. Simmons.

9 MR. SIMMONS: Thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Okay, number 15

11 is time certain Wednesday at 11:00 a.m.

12 I guess we'll do number 16 and then take our

13 lunch break, is that okay with everyone?

14 Okay, number 16.

15 DEPUTY DIRECTOR SCHIAVO: Item number 16 is

16 Discussion of the Impact of State and Federal Construction

17 and Demolition Projects on Jurisdictions' Diversion Rate

18 Achievement.

19 This item was presented at the Board briefing a

20 month ago, and we were asked to bring it forward to the

21 entire board for a more detailed discussion.

22 This item will be presented by Catherine Cardozo.

23 MS. CARDOZO: Good morning, Madam Chair and board

24 members.

25 CHAIRPERSON MOULTON-PATTERSON: Good morning.

1 MS. CARDOZO: Item 16 includes a brief discussion
2 of two example cases that have been brought to staff's
3 attention. One is a short-term or a one-year project that
4 has the potential to impact the City's diversion rate for
5 that year. Another is a long-term project that spans
6 three or four cities, but where the construction and
7 demolition or C&D waste is being allocated to only one of
8 the jurisdictions.

9 The second example was discussed more fully in a
10 March 2001 agenda item. The majority of the item,
11 however, is a discussion of six possible options for
12 dealing with the impact of State or federal C&D projects
13 on jurisdictions' diversion rates.

14 Options 1 through 4 have been used before by the
15 Board to resolve various diversion rate issues, and option
16 4 was used to resolve the specific issue of C&D project
17 impacts.

18 Option 5 has not been used previously, although
19 the Board does have an approved process for its use in the
20 future.

21 Option 6, deducting reporting year disposal has
22 not been previously used by the Board.

23 In my presentation I will just describe each of
24 the options and highlight the key points.

25 Option 1 allows the Board to consider a

1 jurisdiction's good faith efforts to implement diversion
2 programs aside from a C&D project outside of its control.

3 This option was used for a few jurisdictions
4 during the '95 and '96 biennial review process when their
5 diversion rates were slightly lower than the 25 percent
6 diversion requirement.

7 Option 2 would allow a jurisdiction to establish
8 a new base year based on the new waste generation study
9 that included both disposal and diversion from the C&D
10 project.

11 It would therefore be important for the
12 generation of tonnage measured to be representative of a
13 jurisdiction's annual waste stream, and for the agency
14 responsible for the project to work with the host
15 jurisdiction so that tonnage disposed or diverted could be
16 tracked by jurisdiction of origin.

17 Option 3 would allow a jurisdiction to calculate
18 its diversion rate using the generation method, that is by
19 directly counting all of its waste disposed and diverted,
20 including the tonnage from the State or federal C&D
21 project.

22 This option would not be establishing a new base
23 year, however. So once the project was completed, a
24 jurisdiction could once again use its original base year
25 for estimating its annual diversion rate.

1 It would therefore be important for a
2 jurisdiction allowed this option to know that
3 jurisdictions are now required to maintain a 50 percent
4 diversion rate after 2000, unless they have a board
5 approved reduced diversion requirement.

6 Option 4 would allow the Board to accept a
7 nondetermined diversion rate for a jurisdiction for the
8 reporting year in question. In this case, as a demolition
9 portion of the C&D project winds down, the disposal
10 tonnage should decrease and its impact on the city's
11 diversion rate should also decrease accordingly.

12 Option 5 would allow a jurisdiction to apply for
13 one or more SB 1066 time extensions or an alternative
14 diversion rate until the project in question was
15 completed. The jurisdiction would not be required to be
16 at 50 percent diversion during the extension.

17 Option 6 would allow a jurisdiction to deduct the
18 project's disposal tonnage from its reporting year
19 disposal amount. Several jurisdictions have requested to
20 use this option but it hasn't been offered to date as an
21 alternative to this particular issue. Use of this option
22 would therefore set a precedent. The option could be
23 similar, however, to the Board's policy of allowing
24 certain waste sent to Class 2 landfills to be deducted
25 when certain conditions are met.

1 The major benefit of this option would be the
2 relief provided to a jurisdiction from having to count
3 toward its disposal the waste from a federal or State
4 agency project over which it had no control. A problem
5 with this option is that it may be difficult for the Board
6 to determine when a project's disposal tonnage should be
7 deducted.

8 For example, should the disposal tonnage from all
9 federal and State C&D projects be deducted or only tonnage
10 from projects lasting a certain number of years or having
11 a certain particular percentage impact on a jurisdiction's
12 diversion rate?

13 In conclusion, since 1995 the Board has used
14 Options 1 through 4 on a case-by-case basis, while option
15 5 has not been used, although the Board does have an
16 approved process for the submittal of 1066 applications.

17 Option 6 is a new alternative and would require a
18 Board determination of the circumstances underwhich this
19 option could be used. Staff, therefore, seeks the Board's
20 direction regarding Option 6.

21 That concludes my presentation for this
22 discussion item.

23 Are there any questions?

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton?

25 BOARD MEMBER EATON: I have, sort of, a, not to

1 be fickle about it, but a base question. As the State of
2 California is fixing a State highway, by its very
3 definition, it's a State highway, it owns that highway,
4 correct, and the material that's contained therein.

5 Following me thus far?

6 If, for some reason, that material is taken out
7 of the State highway, it has been past practice then that
8 material that's taken away from State property is then
9 either credited or charged against a local jurisdiction;
10 is that correct?

11 MS. CARDOZO: Yes.

12 BOARD MEMBER EATON: And that's under statute or
13 is that an interpretation by which we give it?

14 MS. CARDOZO: Well, up to now even federal
15 projects --

16 BOARD MEMBER EATON: Just State. Let's just go
17 State. Let's not confuse the issue with federal yet.
18 Let's just go with a State highway.

19 MS. CARDOZO: Well, any waste generated within a
20 jurisdiction, whether it be city or county, that city or
21 county is responsible for that waste.

22 BOARD MEMBER EATON: Right. But if it's a State,
23 and then that's the point that's always bothered me about
24 this, that if it's a State highway, it's generated -- now
25 you're saying generated within a city or a county. But

1 the State, and my understanding is, it's sovereign
2 territory, the State Highway.

3 MS. CARDOZO: We have not deducted that tonnage
4 from the individual jurisdictions, nor is it reported that
5 way.

6 BOARD MEMBER EATON: Correct. They get no
7 diversion and they get no -- but they do get --

8 MS. CARDOZO: No, whatever -- I mean, there is
9 not separate reporting at the landfills that this waste
10 comes from a State highway, so there would be no way to
11 not count it against the jurisdictions.

12 BOARD MEMBER EATON: One of the things that I'm
13 trying to get at is that we now have an additional tool at
14 our disposal, which the problem is with the cities and
15 counties of the State, and we can only probably do it with
16 the State since that's where we have some bite with AB 75.
17 Then if the cities and counties aren't charged with that
18 State material at all, either credit or debit, you know,
19 as diversion or disposal, then the State agencies would
20 then be charged with their 25 and 50 percent, right? I
21 mean, wouldn't that be the case?

22 I mean, I'm just trying to figure out if we can
23 segregate, because this is going to help in the mine
24 reclamation project as we get through it that we're
25 working on as well, that if it's State property and it's

1 State generated, under what legal definition are we going
2 that it was generated within that city or county? Is that
3 what we're saying, and do we need a statutory change to
4 make that clear, Mr. Block?

5 You know what I'm trying to go at is that at some
6 point, you know, part of the problem has been is that the
7 cities and counties are complaining that it's not their
8 material. They have nothing. The only benefit they get
9 is obviously probably less traffic congestion, but that's
10 subject to some debate as well in the future.

11 But the question, I'm trying to narrow the issues
12 that maybe we can resolve some of these issues without
13 having to do some of these options and relieve the burdens
14 from the cities and maybe put it back on the State where
15 it properly belongs.

16 STAFF COUNSEL BLOCK: Elliot Block from the legal
17 office. I understand the issue that you're raising. I
18 have to say, at this point, up until now we haven't viewed
19 the county in that regard. I think that's an issue we can
20 explore without doing a little bit of work research on my
21 own to determine exactly what the status of the State
22 highways are, whether they're, in fact, considered not
23 part of the incorporated jurisdictions, for instance, or
24 whether they're -- the word is popping out of my head, I
25 can't think of it. What are those called, not

1 sovereign -- forget it. It doesn't matter.

2 I need to do some more research on that and get
3 back to the Board. That's one of the things we can do as
4 part of -- with option 6 as you can see, there's not a lot
5 of detail right now, because there are a number of factors
6 that we would have to look at if the Board wanted to
7 explore that issue. What I think we were looking for is
8 some direction that that Board even wanted us to be going
9 down that route, and the issues that you raised are some
10 things that we can fold into coming back to you with some
11 more options.

12 Clearly, that's potentially a viable alternative,
13 if, in fact, our research shows that it works out that
14 way. And if it needs a statutory change to do that, we
15 could also, you know, provide that information to the
16 Board.

17 BOARD MEMBER EATON: Because, in essence, that
18 would leave whatever local building is going on, i.e.,
19 local build permits and what have you for them to deal
20 with that issue of waste.

21 STAFF COUNSEL BLOCK: There are some issues we
22 would also have to explore. Since we haven't been looking
23 at those properties in that regard, we'd have to look at
24 whether it might solve the problem in some jurisdictions
25 and not in others, so there certainly would be some work

1 we'd have to do.

2 And "right of away" is the phrase that I couldn't
3 remember just a moment ago. I don't know if those
4 highways are considered right-of-ways as opposed to
5 sovereign properties or not and that's the area I'd need
6 to explore before I could give the Board some more
7 information on that.

8 BOARD MEMBER EATON: Madam Chair, I'd just like
9 to see as we're having the discussion something along
10 those lines because that may help us take a great deal of
11 pressure off of everyone. However, it would probably put
12 CalTrans in a difficult position, because I think we
13 proved their diversion rate at 70 percent, so if they were
14 to get back some of their concrete, I'm not sure it would
15 be up as high as 70 percent.

16 CHAIRPERSON MOULTON-PATTERSON: The Attorney
17 General, do you have -- I don't want to put you on the
18 spot right now, but is this something that comes up at
19 other boards and commissions with state highways.

20 DEPUTY ATTORNEY GENERAL REEVES: Not in my
21 experience, no.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina, did
23 you have a comment?

24 BOARD MEMBER MEDINA: Just a couple of comments,
25 Madam Chair.

1 First, it's my understanding that CalTrans owns
2 and operates and maintains the State Highways on behalf of
3 the State system. I know that that's the reason the
4 Highway Patrol can, you know, maintain public safety on
5 these roads.

6 From my experience at CalTrans, a decision as to
7 where the C&D material was going to go was determined by
8 the district director. And they look for the most cost
9 effective and the closest in proximity location to deposit
10 the C&D material. And from all of the townhall meetings
11 that I attended in regard to transportation projects, I
12 never ever heard any committee bring up the issue of
13 diversion in regard to the materials.

14 If an interchange was going to be torn down and a
15 newer larger one going to be built, the subject never came
16 up.

17 I don't know what decision will be made here
18 today. If it was a matter of CalTrans notifying the local
19 government, local jurisdictions, then a letter to the
20 Director Jeff Morales, might be in order such that he
21 would send that to the districts, and then the districts
22 if they were going to transport C&D material to a given
23 area would notify the local governments of that.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
25 Medina.

1 BOARD MEMBER MEDINA: If not. If we follow Mr.
2 Eaton's suggestion, then this certainly would have an
3 impact on CalTrans' diversion rate, because they do
4 generate a lot of C&D material.

5 BOARD MEMBER EATON: But it would help us in the
6 ultimate solution of what to do with this material in the
7 end. And I'm not saying I want to punish another State
8 agency, but it gives us a little bit of the ability
9 without penalizing the cities and counties, which I
10 understand have been -- and it also takes away a large
11 load now would hurt them, as Mr. Block said, because some
12 of the cities are allowing diversion to occur as well.

13 So there's a double-edged sword here, but at
14 least it takes and segregates, and I think that's the key
15 word, segregates one waste stream so that no one is unduly
16 or unfairly penalized or credited. And I think that's
17 where we want to try and go with some of these efforts in
18 trying to figure out good faith or whatever. We can
19 figure out a way that takes it off the table, that helps
20 everyone and we will account for it in some ways as well.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
22 Eaton.

23 And, Mr. Block, you'll be researching it and
24 getting back to us?

25 STAFF COUNSEL BLOCK: Yes.

1 CHAIRPERSON MOULTON-PATTERSON: We do have two
2 speakers.

3 Mr. Schiavo.

4 DEPUTY DIRECTOR SCHIAVO: I just wanted a little
5 bit of clarification. When we're looking at the
6 construction and demolition, we're talking CalTrans right
7 now, would we want to expand the research into other C&D
8 projects related to State agencies?

9 BOARD MEMBER EATON: Well, it would be helpful in
10 terms of, you know, who owns some this material.
11 Obviously, it becomes a little more involved when you have
12 the Department of General Services and the Department of
13 Corrections, but those are all State owned facilities.
14 The only problem comes in is when General Services decides
15 to lease a building as opposed to buy a building and that
16 there's construction debris.

17 But right now I think if we can get a large load
18 initially and figure out what's State property what isn't,
19 that may help us get to the city's dilemma of what not to
20 have to be charged with.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you. We're
22 going to go to the speakers now.

23 Mr. Cupps followed by Mr. Aprea.

24 MR. CUPPS: Madam Chair and Members of the Board,
25 my name is John Cupps. I'm a consultant. One of my

1 clients is the San Luis Obispo County Integrated Waste
2 Management Authority and I'm here today speaking on their
3 behalf.

4 Very quickly, I guess I would like to suggest
5 that there is at least one additional category of projects
6 that the Board should consider as it moves forward in
7 addressing this, what I think, is a very critical policy
8 question, and that is projects where the local
9 jurisdiction has either little or virtually no control
10 over the approval of those projects. And specifically I
11 would suggest that powerplant construction projects fall
12 into that category, and I'd just like to briefly give you
13 a specific example.

14 Duke Powerplant plans to modernize it's Morro Bay
15 Powerplant. That project will include the demolition of
16 the existing power plant and construction of a new power
17 plant. Just the demolition phase alone is projected to
18 generate approximately 138,000 tons of waste.

19 Duke Power has indicated that they believe that
20 they can, in fact, recycle approximately 83 percent of
21 that waste. So far, however, Duke has not agreed to that
22 as a permit condition. The local jurisdiction has, in
23 fact, requested of the Energy Commission that it be
24 included as a requirement of their certification of the
25 project.

1 We're optimistic that, in fact, that will happen.
2 Nonetheless, even assuming that Duke Power meets that 83
3 percent recycling goal, that means that there will still
4 be approximately 23,000 tons of waste generated from that
5 project. The 23,000 tons of waste represents almost twice
6 the annual disposal for the City of Morro Bay.

7 Obviously, that would have a devastating impact
8 on their diversion rate. Now, as it turns out, the City
9 of Morro Bay is, in fact, a member of the Integrated
10 Authority, so that impact is somewhat diluted.

11 Nonetheless, based upon certain assumptions, we
12 would project that the impact would be on the authority,
13 the regional authority, would depress the diversion rate
14 from like 52 percent to 47 percent.

15 So I guess what I would ask, as you move forward
16 in discussing this policy, you do consider, shall we say,
17 a broad range of projects. That whatever policy
18 determination you make would be that they could use this
19 alternative option, if you will, to adjust their diversion
20 rate.

21 And I would suggest that you strongly or
22 favorably consider the Option 6. We think that that's a
23 very practical way of dealing with these somewhat unique
24 circumstances.

25 Thank you very much.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

2 Cupps.

3 Mr. Aprea.

4 MR. APREA: Good morning, Madam Chair and Members
5 of the Board. Mark Aprea representing Republic Services.

6 I've submitted through staff a letter to you on
7 this item. And I won't go over the letter word for word,
8 but I'd like to summarize some points. And I think that
9 the issue was brought before the Board again by the City
10 of Arcadia. And, Mr. Roberti, I believe that you
11 commented on that presentation.

12 Ostensibly, what we're looking at, Madam Chair
13 and Members of the Board, if we have two comparable
14 facilities, one is a mine reclamation facility that is not
15 a permitted solid waste facility, and we have another
16 facility, nonreclamation facility, that is permitted with
17 the same identical tonnage of waste going into one
18 facility versus another, irrespective of its source,
19 whether it's a state or a federal project or as one, as
20 Mr. Cupps described, a private operation, that that waste
21 is treated very differently.

22 And each municipality whose waste goes to that
23 permitted mine reclamation facility, in essence, is
24 penalized in terms of their diversion rate. I submit to
25 you, that number one, that there is serious inequity in

1 addressing that issue, number 1.

2 Number 2 is that the problem is not an isolated
3 or limited one, in the data that we submitted to you for
4 the four-county jurisdictions of Los Angeles, Orange,
5 Riverside and San Bernardino counties. There are 174
6 jurisdictions who send some portion of their inert waste
7 to one of the three mine reclamation facilities that are
8 permitted solid waste facilities in Los Angeles County.

9 In the case of 47 of those jurisdictions, their
10 disposal is at ten percent or greater, and one
11 jurisdiction has, I believe, 55 percent of its waste
12 being -- inert waste going to one of those facilities.

13 Now, even if you take that one high number as an
14 aberration, you have a significant number who are in the
15 high tens and twenties in terms of their disposal.

16 I think that the options that were brought to you
17 by staff are laudable but really do not address the
18 problem, and that is that the Board needs to take action
19 to, in essence, say this ton of waste going to a mine
20 reclamation facility should count neither as disposal nor
21 would that waste be eligible for any diversion credits by
22 a local jurisdiction.

23 In essence, that waste should not count for
24 purposes of achieving the AB 939 goals. Both local
25 jurisdictions and the haulers that serve them are under

1 incredible scrutiny to achieve the 50 percent diversion
2 goal. Those who have engaged in all necessary activity to
3 reach that and have been found by staff and by this Board
4 to have done a laudable job, nonetheless will fail by
5 virtue of one act and one act only, and that could be a
6 State, a federal agency or a private operator choosing to
7 send its waste to one of those permitted mine reclamation
8 facilities.

9 So we would ask that this Board adopt a policy to
10 not count these as either disposal or diversion or if the
11 Board is unable do that, then to support or to initiate
12 legislation on their own to make a statutory change.

13 I want to thank Mr. Eaton in terms of his
14 efforts. I would submit that that effort alone does not
15 go far enough. It does not address the problem, and that
16 problem will continue to plague local jurisdictions that
17 have to send their waste to a particular facility or whose
18 waste is sent there. And it not only penalizes that
19 jurisdiction, but it also penalizes those facilities who
20 will now find themselves in a position of not having waste
21 to accept because of calculations made by haulers or by
22 local jurisdictions as to where that waste should go.

23 That should not be what the State's policy should
24 do. It shouldn't change people's behavior in terms of one
25 facility versus another one, when, in fact, there is no

1 difference between one versus the other.

2 So, again, we would urge the Board to adopt such
3 a policy or to initiate such legislation.

4 Are there any questions?

5 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
6 Aprea. Just while you're up, and I want to ask Mr.
7 Schiavo And Ms. Nauman, will we be addressing the C&D regs
8 in January?

9 DEPUTY DIRECTOR NAUMAN: Actually, we have an
10 item on this month's agenda, I was just taking another
11 quick look at it, Item 34 is an update for you on the
12 development of the C&D regs, and kind of our completion of
13 Phase 1, and, yes, we'll be delving into this hole issue
14 as we start Phase 2 of the C&D regs.

15 CHAIRPERSON MOULTON-PATTERSON: We're all very
16 concerned about it.

17 MR. APREA: Madam Chair, I respect the Chair's
18 view to perhaps address this issue in that manner. I
19 might suggest that those mine reclamation facilities that
20 are not currently permitted, who might be permitted under
21 some kind of a tiered C&D facility permitting scheme would
22 very likely resist being brought in under the Waste
23 Board's jurisdiction.

24 And this issue would then be held captive to the
25 Board's success in addressing that issue. And I would

1 again submit that they ought not be necessarily linked but
2 addressed in a separate manner.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Aprea.

5 MR. APREA: Thank you, Madam Chair and Members of
6 the Board.

7 CHAIRPERSON MOULTON-PATTERSON: That concludes
8 the public speakers. Now, you needed some direction on
9 Options 6; is that correct?

10 DEPUTY DIRECTOR SCHIAVO: Yeah, we have some
11 direction so far.

12 CHAIRPERSON MOULTON-PATTERSON: You know, I like
13 the case-by-case myself.

14 What about other Board Members?

15 Mr. Jones.

16 BOARD MEMBER JONES: Thanks, Madam Chair. I
17 think that the issue of the inert waste going to those
18 three sites still needs to be discussed. I think we gave
19 that city a little bit of direction down at our meeting at
20 the South Coast Air District, that if it fell into a
21 couple of categories we needed to, you know, look at it
22 again.

23 But as far as the discussions, and I understand
24 where Mr. Eaton is going and I appreciate it and I agree
25 with it, on the State highway system being, in fact,

1 attributed under AB 75 to CalTrans. I think the one thing
2 that, as an operator, when they would do these kinds of
3 projects and you'd sit down and try to meet with them,
4 you'd basically get told to forget it and not worry about
5 it.

6 So, I mean, while there is some interaction, it's
7 usually not very responsive. So I think that we can
8 handle that through either Mr. Eaton's idea of trying to
9 allocate that under AB 75 to the agency, but I also think
10 under Option 6, we need to have a little more discussion.
11 I like the idea of option 6. I support the idea of option
12 6, because we're a disposal based system. We're no longer
13 looking at what gets recycled.

14 So 80 percent of a 100,000 ton project still
15 means 20,000 tons of material going to disposal. That's a
16 great act to recycle 80 percent of a project. The impact
17 is to the jurisdiction in a way that they have no control.
18 I think one other piece that we need to look at in those
19 discussions, which I brought up at the briefing, and I
20 appreciate, Mr. Schiavo, you producing, as the Chairwoman
21 had asked, those ordinances that could be copied.

22 I think that it's important that if a
23 jurisdiction comes to us and that jurisdiction has put an
24 ordinance in place when somebody pulls a building permit
25 on how to deal with the demolition of a building and the

1 types of options that the City recognizes so that that
2 material gets recycled is an important factor when we're
3 looking at Option 6, because the one thing we really need
4 to look at as well as the federal agencies and the State
5 agencies are those jurisdictions, especially down south,
6 that have historically had \$20 million, \$10 million, \$50
7 million worth of new construction or some form of
8 construction on a yearly basis.

9 And then because of the economy or changes in
10 areas, Paul Rellis can give you an example of one city
11 that had historically got \$20 million to \$40 million worth
12 of activity a year, and last year had \$250 million worth
13 of new construction activity, that obviously is going to
14 create a lot more waste than anybody had probably thought
15 about. And yet on a goal year, that waste all goes as
16 disposal even if they had diverted a bunch of it.

17 So Option 6 would give us, with some more work,
18 and I think we need to bring it back in the form of a
19 workshop or whatever or something, Madam Chair, and I mean
20 whatever you guys want to do, talk about setting
21 parameters where if jurisdictions have done their jobs in
22 trying to do the programs, put the infrastructure in
23 place, and growth is impacting them to the point where the
24 disposal is going through the roof, even though they've
25 got those kinds of programs in place, we need to have some

1 kind of an option, a one-line option that if you meet this
2 criteria, whether it's a road project, whether it's new
3 construction that is out of the ordinary or, you know,
4 considerably more than what has been the norm, we should
5 be able to look at those on a case-by-base basis.

6 That would be my suggestion.

7 CHAIRPERSON MOULTON-PATTERSON: Any other
8 comments?

9 BOARD MEMBER ROBERTI: I take it that we'll be
10 discussing the C&D regs and therefore the specific problem
11 of equal treatment on Item 34?

12 CHAIRPERSON MOULTON-PATTERSON: Right.

13 Thank you.

14 BOARD MEMBER PAPARIAN: Madam Chair, I'm sorry,
15 just as we go forward with this, I want to make sure that
16 we don't lose any incentives that might be there to
17 recycle as much as possible out at the C&D.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay,
19 so at this time, we're going to take our lunch break. At
20 2:00 o'clock we'll hear Item 1 first thing and then Item
21 18, 19 and go back to 7, that will complete our agenda for
22 today.

23 (Thereupon a lunch recess was taken.)

24

25

1 AFTERNOON SESSION

2 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
3 the meeting back to order.

4 Mr. Jones, do you have any ex partes?

5 BOARD MEMBER JONES: You know, I had gotten all
6 up to speed until I saw George Larson, so I have George
7 Larson on strategic plan and I think that's it.

8 John Davis on RMDZ, sorry.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton?

10 BOARD MEMBER EATON: I just had a quick hello to
11 Mark Aprea just before we broke for lunch.

12 That's it, thank you.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

14 BOARD MEMBER MEDINA: None to report.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

16 BOARD MEMBER PAPARIAN: None.

17 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

18 BOARD MEMBER ROBERTI: No ex partes.

19 CHAIRPERSON MOULTON-PATTERSON: And I have none.

20 Okay. We're going to start back on Item number
21 1, and I'll turn it over to Ms. Packard.

22 ASSISTANT DIRECTOR PACKARD: Thank you, Madam
23 Chair. Good afternoon, board members. My name is Rubia
24 Packard with the Policy Office.

25 And I am here today to present Agenda Item 1,

1 Consideration of Adoption or Discussion of the Board's
2 2001 Strategic Plan. I'd like to thank you for your
3 consideration and patience this morning in putting the
4 item off till this afternoon so we could get a couple of
5 things cleared up.

6 This item is a culmination of Board efforts
7 beginning with the 21st Century Policy Project in 1999 and
8 continuing through 2001. We have conducted four publicly
9 noticed stakeholder forums, and used that material as a
10 foundation for the development of the draft Strategic Plan
11 that is before you today.

12 The elements of the plan were developed through
13 the Board's executive team utilizing input from the Board
14 through interviews and board meetings, as well as through
15 internal teams representing board member offices, the
16 executive team and staff.

17 The Board provided direction on the draft
18 elements during the June and August board meetings. And
19 at the October 2001 board meeting, the Board directed
20 staff to allow for an additional opportunity for public
21 review and comment of the proposed plan by continuing
22 consideration of a draft plan to this month's board
23 meeting.

24 We received many comments during this period,
25 both in writing and during the November 7th board workshop

1 on this strategic plan.

2 Based upon board comments at the workshop and the
3 comments we received, staff has prepared the Revised 2001
4 Draft Strategic Plan that is Attachment 1 to today's
5 agenda item.

6 The changes that we have proposed are in the area
7 of clarifying the definitions of product stewardship, zero
8 waste and sustainability. We've added some language
9 regarding the future steps in terms of implementation and
10 stakeholder input. We've clarified the commitment to
11 environmental justice. We've added some -- or excuse me,
12 revised the language around proper use and disposal of
13 household chemicals and safe alternatives, and we've made
14 a few more minor editorial changes to either clarify a
15 definition or add a little bit to it.

16 So with that, the revised plan is before you.
17 And if you have any questions about any of the changes,
18 I'd be happy to answer those.

19 CHAIRPERSON MOULTON-PATTERSON: Before we go to
20 questions, I misspoke, I do have on ex parte, a letter
21 that was faxed to me I guess from Myra Nissen of Northern
22 California Recycling Association on support for the
23 strategic plan.

24 Any questions before we go to the speakers?

25 Excuse me.

1 BOARD MEMBER EATON: Madam Chair, before I got
2 back from lunch, did you happen to do the Livingston and
3 Mattesich that was on my desk or that --

4 CHAIRPERSON MOULTON-PATTERSON: No, I don't.

5 BOARD MEMBER EATON: Let me do that one as well.
6 It's on this plan. It's a letter from Randy Pollack from
7 Livingston and Mattesich on Agenda Item number 1 regarding
8 the strategic plan, ex parte, I'm sorry.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you. For
10 everyone, Thank you, Mr. Eaton.

11 Okay, any questions before we go to speakers?

12 Mr. Paparian.

13 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
14 I just wanted to clarify one item with regard to the
15 changes that staff has proposed. Manufacturer
16 responsibility is something that we engage in pursuant to
17 law and I'm sure -- well, I'm sure a lot of us are
18 familiar with things like the RPPC program and the Plastic
19 Bag Program and other programs where I, for one, at least
20 consider that part of our manufacturer responsibility
21 agenda.

22 I just want to be sure that from staff's
23 perspective by removing those words, we haven't lost those
24 concepts in terms of the things that were required to do
25 and required to be part of?

1 ASSISTANT DIRECTOR PACKARD: Well, in the review
2 of some proposed revisions, one of the comments that I
3 received from a program was that they felt that
4 manufacturer responsibility is a part of product
5 stewardship. And in the reading that I did over the last
6 week, I saw that in many documents that was the assumption
7 as well, that manufacturer responsibility was a part of
8 product stewardship. But certainly if you feel it
9 warrants being called out or you don't agree, we can
10 certainly change it back, but that was the thinking behind
11 eliminating manufacturer responsibility from the list
12 because product stewardship was already in that goal
13 articulated in that goal.

14 BOARD MEMBER PAPARIAN: Thank you.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
16 Paparian.

17 Okay, we'll go to public speakers.

18 Skip Lacaze, city of San Jose.

19 MR. LACAZE: Good afternoon. My name is Skip
20 Lacaze. I'm the Civic Services Manager in the City of San
21 Jose's Environmental Services Department. I'd like to
22 express the City's support for the Board's 2001 strategic
23 plan, and its final form of last Friday.

24 We'd specifically like to support the strong
25 statements in favor of extended producer responsibility,

1 manufacturer responsibility, and also zero waste.

2 The City has had a longstanding set of policies
3 along these lines, dating back to the mid-1980s supporting
4 the addition of additional container types and materials
5 to the Bottle Bill, and other methods of making the
6 producers, distributors and retailers of problematic goods
7 responsible for the ultimate recycling or disposal.

8 As the Board continues reviewing a strategic plan
9 and then later implementing the recommended legislation,
10 we think that all policies should continue to receive
11 strong consideration.

12 Thank you very much.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you for
14 coming.

15 Karen Jarrell, Smurfit-Stone Container
16 Corporation or Jarrell.

17 MS. JARRELL: Karen Jarrell with Smurfit-Stone
18 Containers, Smurfit Recycling Company. We appreciate the
19 work that the Board and staff has done lately to get us
20 all involved and to pay attention to our concerns. We
21 very much appreciate that, and the input that we've been
22 able to put in there, which is reflected in a lot of the
23 changes that have been made in this last document.

24 I will say, however, that on behalf of my
25 company, and only speaking for my company, that we still

1 have a problem with the term zero waste. We don't think
2 it's realistic. We don't think it's attainable. If you
3 want to say minimum waste or minimize waste, we don't have
4 a problem with that. But zero waste is something that can
5 be picked up out of a document without looking necessarily
6 at how it's defined in here, which is not defined very
7 well in here, and pick it up and use it in legislation, et
8 cetera, and that's our concern.

9 We just don't think it's attainable, as I said,
10 or feasible. You'd have to recycle or compost everything.
11 You wouldn't need haulers.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank
13 you for coming.

14 John Davis followed by George Larson.

15 MR. DAVIS: Madam Chair and Board Members, John
16 Davis. I'm currently the President of the California
17 Resource Recovery Association. And I'd like to speak, I
18 guess, to the concept of zero waste. And truly I think
19 the question would be how much waste would you support,
20 how much waste does Smurfit think is good for the
21 environment, good for the economy.

22 Zero waste as a goal, zero waste as a mission, I
23 think is where we really need to go. Can we get there?
24 You know, I know at my house, we're pretty darn close. If
25 it wasn't for plastic packaging, we'd be zero waste every

1 week. I think the issue for industrial manufacturing
2 process is a different issue.

3 We have the tools. I think we all know we have
4 the tools. And what you're doing now is adopting the will
5 for it, so I hope you will.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 George Larson followed by Jeff Sickenger.

9 MR. LARSON: Thank you, Madam Chair and Members.
10 I also want to express appreciation on behalf of the
11 American Plastics Council for the very diligent work that
12 was done, and I want to note Rubia Packard in particular,
13 for having very seriously considered the suggestions that
14 were offered. And I think there is some distinct
15 improvements in addressing the issues that we raised.

16 On the issue of zero waste, maybe there is a
17 middle ground that I might suggest. I think on page ten
18 of the document, there is a definition of zero waste that
19 I feel very strongly accurately depicts what the Board is
20 trying to say in terms of what zero waste means, and
21 that's the, "Striving towards maximum waste reduction
22 through the most efficient use of natural resources and
23 materials and maximizing recycling."

24 My suggestion would be that the concept of that
25 definition on page ten be integrated into the references

1 to zero waste on page five and page 25. We don't need to
2 go obviously through that now. But I think you've
3 addressed really what the concern was in that definition.
4 If we could use that definition where it's used in, at
5 least, conceptual language, that would be very helpful.

6 I definitely support and appreciate the quarterly
7 updates language that will allow a report to the Board on
8 the progress of the implementation, and then an annual
9 review of that strategic plan.

10 And as my last comment on page 19, we recommended
11 inclusion of plastics, since as the last speaker spoke, it
12 might need some additional support for waste management
13 technologies, where tires and solid waste management
14 technologies are referenced in objective number 3 at the
15 top of page 19.

16 If we could incorporate tires, plastics and solid
17 waste management technologies, that would help to foster
18 and engender new ways to manage that particular waste
19 stream. And then under that section, there's objective 3
20 on page 19, there's an A and a B subsection.

21 I would suggest the addition of a Subsection C
22 that says, "Promote development of conversion technologies
23 to convert waste tires and plastic into green fuel and
24 energy."

25 Thank you very much.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Larson.

3 Jeff Sickenger followed by Mark Aprea.

4 MR. SICKENGER: Madam Chair and Members, Jeff
5 Sickenger of the California Manufacturers and Technology
6 Association.

7 I'd like to say on balance we feel that staff's
8 proposed language improves the document. I'd just like to
9 make three points as briefly as I can here.

10 First of all, CMTA would like to thank staff and
11 also the Board Members for being so responsive to our
12 concerns about having opportunities for input,
13 particularly in the context of the implementation of
14 concepts in the plan.

15 Secondly, on the issue of zero waste, it is
16 reassuring to many of our members to see the new language
17 that Mr. Larson referred to, which I think appears both on
18 page ten and again on page 25, that talks about more
19 efficient use of resources and an effort to reduce waste.

20 And I think as Board Member Paparian noted in the
21 discussion last Wednesday, a number of our member
22 companies have made the great strides in that direction,
23 and we certainly want to support their efforts in that
24 regard, and in no way want to undermine the notion that
25 they should set aggressive goals for themselves and

1 develop innovative programs to achieve them, but I feel
2 like there's some disconnect in the discussion of zero
3 waste, and I just want to touch on it for a minute.

4 I think it's a bit of an apples and oranges
5 comparison for a company to set a zero waste goal for
6 itself where it controls the decisions that affect how
7 much waste it generates and how that waste is managed.

8 On the other hand, when certain stakeholders talk
9 about concepts like advanced disposal fees and mandatory
10 recycling rates and minimum content, I think it's
11 important to recognize that these concepts are -- they
12 take the form of mandates, they're not goals, and, in
13 fact, they involve external factors that are typically
14 beyond the control of the manufacturers.

15 So while we see the proposed language as an
16 improvement, we would still prefer to see a specific
17 reference to the need to balance the pursuit of waste
18 reduction with other factors, such as consumer preferences
19 and economics.

20 And, again, I'd like to support Mr. Larson's
21 suggestion that the language on page ten and page 25 be
22 made consistent throughout the document.

23 And then third and finally, we appreciate staff's
24 language changes on the issue of environmental justice. I
25 think during last week's discussion, the theme of

1 consistency with CalEPA's strategic vision document came
2 up repeatedly, and I think it's important to note that
3 that the CalEPA document which was issued back in, I
4 believe, it was July of 2000, predates at least four
5 pieces of environmental justice legislation, all of which
6 use the SB 115 definition of environmental justice, which
7 is fair treatment for all people.

8 And our view is that the CalEPA document probably
9 should be updated to reflect what has since become a
10 fairly substantial body of State law on this issue. So
11 with that being said, with Mr. Larson's recommendation and
12 the view that this document is sort of an ongoing work in
13 progress, we would ask that the Board adopt this strategic
14 plan with staff's proposed recommendation and we look
15 forward to being a part of the implementation process.

16 Thank you.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Mark Aprea followed by Mark Murray.

19 MR. APREA: Madam Chair and Members of the Board,
20 Mark Aprea representing Republic Services.

21 At the last board meeting in which the strategic
22 plan was considered, we raised the issue of the strategic
23 plan being considered in light of budget considerations,
24 and thereby establishing priorities as to what was more
25 important as opposed to other items.

1 We're encouraged that there has been some
2 discussion by the Board, as well as some discussion within
3 the document that this strategic plan will be used in
4 concert with the budget process. Nonetheless, the
5 strategic plan, as adopted, is certainly ambitious and, in
6 terms, of its effect on the Board's budget as well as the
7 effect on municipal budgets as well as the budgets of
8 individual residences and companies, not to mention solid
9 waste haulers.

10 I might suggest that while the strategic plan is
11 certainly laudable that we haven't really come to reality,
12 come to grips with reality in terms of strategic plan
13 versus fiscal constraints. And so as the Board moves
14 forward in looking at each of the individual items within
15 the strategic plan that I, again, encourage the Board to
16 establish some priority mechanism whereby the Board and
17 the staff and the stakeholders can understand, you know,
18 what's in front of the line versus what's not as high a
19 priority.

20 Again, thank you, members.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Mark Murray is our last speaker right now, but
23 there might be one coming up.

24 MR. MURRAY: Madam Chair and members, Mark Murray
25 with Californians Against Waste.

1 I'll be very brief. I really appreciate the time
2 and thoughtfulness that your staff has put into the
3 strategic plan. And we strongly support its adoption,
4 and, frankly, very pleased that this Board and staff has
5 really stuck to their guns in terms of embracing this
6 vision document and not watering it down, so it ended up
7 meaning nothing.

8 I do want to maybe echo a point that Mr. Paparian
9 made, and just to kind of affirm it with folks. There was
10 a deletion of the term manufacturer responsibility. I do
11 consider manufacturer responsibility a means of achieving
12 product stewardship.

13 So I think that there is a commonality between
14 those. I guess I'd like to just know that the Board feels
15 that way and that this change this cross out of that term
16 is in no way intended to reflect a moving back on that
17 concept of manufacturer responsibility.

18 I would also note in terms of this notion of
19 maybe putting plastics and plastics recycling in some
20 special category, I would note that we have targeted tires
21 in this State, and we've been able to put additional
22 resources into tire waste management and tire recycling,
23 because we have an advanced disposal fee on tires.

24 And I think that if we had an advanced disposal
25 fee on a plastic containers, it would be very appropriate

1 for us to put that same kind of effort into plastic
2 recycling.

3 Right now the only tool we have is manufacturer
4 responsibility, I mean, product stewardship.

5 Thanks a lot.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Domonic DeMari, I can't read it.

8 MR. DeMARI: My apologies to the Chair. My
9 handwriting is really bad despite the nun's best effort.
10 (Laughter.)

11 MR. DeMARI: My name is Domonic DeMari. I'm with
12 the California Chamber of Commerce. I'm here to thank the
13 Board and the Members of the Board and staff publicly for
14 the consideration and the work that they put in working
15 with our organization and CMTA, whom you've heard from
16 earlier and some of the other folks with regard to the
17 strategic plan and with regard to the issues raised
18 particularly the product stewardship issues and the
19 manufacturers responsibility issues.

20 We are pleased to continue our work with the
21 Board, and we're very happy with the direction that we're
22 heading together and we look forward to the continued work
23 on the strategic plan and working with the Board and
24 staff. Once again thank you very much for your efforts in
25 listening to us.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 And I want to thank all the speakers. We really
3 appreciate your participation and coming today and on many
4 other occasions.

5 Members on that?

6 Mr. Paparian, do you want to start off?

7 BOARD MEMBER PAPARIAN: I'll go. A couple of
8 comments, Mr. Larson has brought up a couple times issues
9 involving objective 3, and on page 19 of the revised
10 version, and I wonder if there's a different approach. I
11 was a little bit hesitant to single out the waste streams
12 that he identified, but I wonder if there's a way to
13 capture some of the direction that he was hoping would go
14 with in a different way.

15 My suggestion would be that objective 3 be to
16 promote the increased development and use of waste
17 management technologies rather than starting a list. He
18 suggested adding to the list of waste tires and other
19 things, but I think waste management technologies or solid
20 waste management technologies would capture everything
21 that's out there.

22 And then similarly on Strategy B, rather than
23 singling out waste tire and solid waste management
24 technologies, perhaps just calling that Waste Management
25 Technologies, Innovative Waste Management Technologies.

1 ASSISTANT DIRECTOR PACKARD: Sounds good to me,
2 if you're asking me.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: Just a question, Madam
5 Chair.

6 So strike tire and solid waste?

7 BOARD MEMBER PAPARIAN: Right.

8 BOARD MEMBER JONES: So it just says Waste
9 Management technologies.

10 BOARD MEMBER PAPARIAN: So we capture all the
11 types of waste that we deal with. He was suggesting
12 adding some waste types. The reason I don't want to do
13 that is then you start having a long list of waste types.

14 BOARD MEMBER JONES: I don't want to add the
15 waste types, I'm wondering, though, solid waste technology
16 is going to be looked at as picking up of recyclables more
17 so than the conversion technology issues that we've been
18 dealing with. Can you think of another -- do we have --

19 BOARD MEMBER PAPARIAN: I think we have
20 conversion elsewhere, but I could see in Letter B adding
21 conversion technologies to that so it could read, "Foster
22 and maintain partnerships to accelerate the development,
23 evaluation and implementation of innovative waste
24 management and conversion technologies."

25 BOARD MEMBER JONES: That would work. Then we

1 wouldn't have to put in C and we'd get the message out.

2 We wouldn't have to list the types.

3 CHAIRPERSON MOULTON-PATTERSON: Is that it, Mr.
4 Paparian?

5 BOARD MEMBER PAPARIAN: That's my only suggestion
6 for now.

7 Thanks.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Just one question on the
10 description on 25 of zero waste. I think it was 25 and
11 then we've got it where we put in the definition. We kind
12 of made the definitions by bolding the word zero waste and
13 bolding manufacturer responsibility or whatever the word
14 was, whatever we used there.

15 If we didn't want to add that, could we at least
16 put a thing in there that says see page 25?

17 ASSISTANT DIRECTOR PACKARD: Certainly.

18 Although, I got the impression Mr. Larson -- maybe I
19 misheard Mr. Larson who wanted to use the definition on
20 page five on page 25.

21 The definition on page five is very brief.

22 BOARD MEMBER JONES: I heard it the other way.

23 ASSISTANT DIRECTOR PACKARD: Yeah, I just heard
24 it backwards then.

25 BOARD MEMBER JONES: I heard use 25 on and

1 include it with five.

2 ASSISTANT DIRECTOR PACKARD: The Definition on
3 page 25 is more expansive and the words that we used on
4 page five were intended to be just a very brief, a summary
5 of what's on page 25.

6 BOARD MEMBER JONES: So I'm wondering if we just
7 say, and I don't know the right way to do this, but if we
8 leave it short on page five, but reference the, you know,
9 say that it's expanded on page 25.

10 MR. LARSON: Can I clarify, I was referencing
11 page ten.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Larson, come
13 forward, please.

14 BOARD MEMBER JONES: Right, the definitions are
15 on page ten. I said five, that was a mistake, ten.

16 MR. LARSON: Yes.

17 ASSISTANT DIRECTOR PACKARD: Well, it's also on
18 page five. Page five is the message from the Board, so
19 necessarily you'd want to keep it a little bit shorter
20 there, but on page ten, that is again intended to be a
21 shorter version of what's on page 25.

22 BOARD MEMBER JONES: Right. How would the Board
23 feel about just saying see page 25 for a more broader
24 definition?

25 CHAIRPERSON MOULTON-PATTERSON: I don't see any

1 downside in that. Does anybody else?

2 BOARD MEMBER JONES: It would just add clarity to
3 it.

4 CHAIRPERSON MOULTON-PATTERSON: Yeah, that's fine
5 with me.

6 BOARD MEMBER JONES: Is that okay? And we'll
7 just do it with the reference, so they don't have to add
8 the words or would you rather adds the words? I mean, it
9 doesn't matter to me.

10 CHAIRPERSON MOULTON-PATTERSON: I think just see
11 page 25 for expanded definitions.

12 BOARD MEMBER JONES: I think that would just add
13 clarity.

14 ASSISTANT DIRECTOR PACKARD: Okay.

15 CHAIRPERSON MOULTON-PATTERSON: Anyone else?

16 Well, before we make a motion to approve this, I
17 just want to thank Ms. Packard and her staff for such hard
18 work in capturing what everybody wants. And I want to
19 thank all our speakers. You know, I think this is a great
20 document. I don't think we've watered it down, but yet
21 we've been sensitive to industry and tried to work with
22 everyone, and I'm real proud of it. And I think everybody
23 involved has done a really good job.

24 So with that --

25 BOARD MEMBER JONES: Can I second your motion?

1 CHAIRPERSON MOULTON-PATTERSON: Okay, I'll move
2 the adoption of Resolution 2001-428, the adoption of the
3 Board's 2001 strategic plan. And I might add, I almost
4 forgot, one of the things that we did add in here, and I
5 think it's important, is that there is an annual review
6 and there will be time for the public to look at it so it
7 can -- if there's a problem, we can talk about it.

8 BOARD MEMBER JONES: I'll second it.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by
10 Moulton-Patterson seconded by Mr. Jones to approve the
11 Board's 2001 strategic plan.

12 Please call the roll.

13 SECRETARY FARRELL: Eaton?

14 BOARD MEMBER EATON: Aye.

15 SECRETARY FARRELL: Jones?

16 BOARD MEMBER JONES: Aye.

17 SECRETARY FARRELL: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 SECRETARY FARRELL: Paparian?

20 BOARD MEMBER PAPARIAN: Aye.

21 SECRETARY FARRELL: Roberti?

22 BOARD MEMBER ROBERTI: Aye.

23 SECRETARY FARRELL: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 Okay, the strategic plan is adopted.

1 Now, I believe we left off -- okay, for those of
2 you that weren't here before lunch, it's our plan to do
3 18, 19 and then we'll go back to seven, which we discussed
4 and we were looking at a little different language.

5 So with that we'll go to number 18.

6 DEPUTY DIRECTOR SCHIAVO: Item number 18 is
7 Consideration of Approval of the SB 2202 Draft Report to
8 the Legislature Titled A Comprehensive Analysis of the
9 Integrated Waste Management Act Diversion Rate Measurement
10 System. And over the past year we've been providing board
11 members with detailed updates regarding the progress and
12 input that we received.

13 Last month we brought forward a discussion item
14 that went through all of the details. As we mentioned
15 several times, this has been disseminated out to over
16 1,000 people for comment. We received about 15 different
17 comments which have been addressed either they've been
18 incorporated into the study or we've presented a reason as
19 to why we did not incorporate the comment.

20 So Lorraine Van Kekerix will be presenting this
21 item.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 MS. VAN KEKERIX: Good afternoon, board members.
25 Let's see if we can go to the presentation.

1 I'm going to give you a brief report on the
2 report to the Legislature that was required by Senate Bill
3 2202.

4 And I have plenty of staff here who can answer
5 detailed questions. I just thought I'd briefly go over
6 mostly the recommendations that came out of our work.

7 --o0o--

8 MS. VAN KEKERIX: SB 2202 went into effect on
9 January 1st of this year and required the Board to analyze
10 how the disposal reporting system is working throughout
11 the State after five years. It required us to develop a
12 report to the Legislature with assistance from a working
13 group of stakeholders. And that was to include
14 recommendations for improvement of accuracy and
15 streamlining the system. And this report is due to the
16 Legislature by January 1st of 2002.

17 --o0o--

18 MS. VAN KEKERIX: Almost 70 volunteers served on
19 four working groups. We have the disposal reporting
20 system adjustment methods and alternatives to the existing
21 system. And then the recommendations coming out of those
22 more focused working groups were synthesized by a group of
23 18 people that were comprised of the members of those
24 groups. And they represented the north, central and
25 southern California cities and counties, haulers, the

1 environmental groups, universities. We had a wide
2 variety.

3 Everyone who volunteered for one of our working
4 groups was assigned to at least one. Additionally, we had
5 people who served as technical reviewers of all the
6 working group materials. They got all the materials at
7 the same time and could provide comments to us.

8 --o0o--

9 MS. VAN KEKERIX: The recommendations were
10 developed during the working group meetings, and I'm just
11 going to present some highlights in this presentation. We
12 have a summary table of recommendations in Chapter 1 of
13 the report and an expanded table in Chapter 3.

14 --o0o--

15 MS. VAN KEKERIX: There were several broad themes
16 in the recommendations that came up in each of the working
17 groups. So I'd like to go over the broad themes first and
18 then get into more specific recommendations.

19 One of the things that we found after our a
20 analysis was that there was potential for errors in all
21 components of the diversion rate measurement system, so
22 that diversion rates were estimates or indicators. Small
23 jurisdictions are more likely to have inaccurate diversion
24 rates, and therefore we need to focus on diversion program
25 implementation.

1 --o0o--

2 MS. VAN KEKERIX: In terms of large
3 jurisdictions, our existing diversion rate measurement
4 system is relatively inexpensive, easy estimate or
5 indicator of what's happening with diversion. It works
6 reasonably well if the measurement year disposal is
7 accurate and base year conditions are similar to the
8 measurement year conditions. And diversion program data
9 is important for large jurisdictions.

10 --o0o--

11 MS. VAN KEKERIX: For small jurisdictions, we
12 found that there was a high probability of measurement
13 error for each of the factors that goes into measuring the
14 diversion rate. And in these cases diversion program data
15 is important.

16 --o0o--

17 MS. VAN KEKERIX: There were seven categories of
18 recommendations in the report, and I'm going to go through
19 each of those briefly.

20 --o0o--

21 MS. VAN KEKERIX: In terms of accuracy, several
22 of the recommendations deal with our disposal reporting
23 system or DRS. One of the recommendations is to set
24 statewide standards for collecting data.

25 --o0o--

1 MS. VAN KEKERIX: One of the potential standards
2 could be to use something like this standardized form for
3 collecting the types of information or to require that it
4 be submitted to the Board electronically so that we don't
5 have as many errors in entering data.

6 --o0o--

7 MS. VAN KEKERIX: Some additional disposal
8 reporting system accuracy recommendations are to use
9 scales at all facilities in the base year. About 50
10 percent of the facilities did not have scales. We're down
11 to about ten percent of the facilities not having scales
12 at this time.

13 The DRS regs allow local flexibility and set
14 minimum standards. But we have found that accuracy is
15 improved if you survey every load every day. The working
16 group recommended that we exempt small rural jurisdictions
17 from the daily survey requirement because of the potential
18 for error with those small and rural jurisdictions.

19 There's also a recommendation to increase our DRS
20 audit activities.

21 --o0o--

22 MS. VAN KEKERIX: The Board has already directed
23 staff to look at alternative daily cover and consider
24 updating the Local Enforcement Agency advisory.

25 --o0o--

1 MS. VAN KEKERIX: In order to improve accuracy,
2 larger regions seem to be more accurate, so one of the
3 recommendations is to increase incentives to form regional
4 agencies.

5 --o0o--

6 MS. VAN KEKERIX: The adjustment factors were
7 another topic discussed in terms of accuracy. In terms of
8 default factors, the factors that are currently on the
9 Board's web site, the recommendation is to continue to use
10 those factors and to carefully analyze alternative sources
11 of information for the adjustment method on a case-by-case
12 basis.

13 --o0o--

14 MS. VAN KEKERIX: One of the things that the
15 working group felt very strongly about was the need to
16 look at ways other than numerical compliance to determine
17 whether they've met their objectives of the Integrated
18 Waste Management Act.

19 The recommendation was to include a diversion
20 rate accuracy indicator table in the biennial reviews
21 agenda items that are coming to the Board. This would
22 give the Board information that it could use to determine
23 the balance between relying on diversion rates and program
24 information.

25 Some of the accuracy indicators that could be

1 included in such a table would be the ones that are listed
2 on the slide. There are additional measures that could
3 also be included if the Board wants to recommend that.

4 --o0o--

5 MS. VAN KEKERIX: Another category that the
6 working group felt very strongly about was that
7 jurisdictions have the responsibility for meeting the
8 requirements of the act but may not have control over all
9 of the waste stream. So some of the recommendations to
10 spread the responsibility include the following. Make
11 solid waste facility participation in the disposal
12 reporting system a permit requirement. Currently transfer
13 stations are required in their facility permits to
14 participate in the disposal reporting system but landfills
15 are not.

16 Draft a model local ordinance to require haulers
17 to report origin information; remove institutional
18 barriers to establishing diversion programs and
19 facilities.

20 --o0o--

21 MS. VAN KEKERIX: Require disposal facilities to
22 divert self haul waste; and require schools and State
23 agencies to divert waste in cooperation with
24 jurisdictions.

25 Existing law encourages them to divert in

1 cooperation with jurisdictions. This would be stronger
2 and would require them to cooperate.

3 --o0o--

4 MS. VAN KEKERIX: Another major category under
5 responsibility and control was looking at enforcement.
6 Some of the recommendations we're authorizing an
7 assessment of penalties for misinformation by haulers,
8 landfills, MRFs of transfer station. And after extensive
9 discussion in the working group, the recommendation was
10 that the Board be responsible for enforcement and
11 assessment of penalties.

12 --o0o--

13 MS. VAN KEKERIX: Another major category for our
14 working group was that markets were essential to diversion
15 programs, and they recommend that the Board develop
16 markets through a variety of activities and mandate more
17 recycled content products.

18 --o0o--

19 MS. VAN KEKERIX: We also request to change what
20 counts as disposal and diversion, and there are several
21 recommendations in this category. Eliminate disposal
22 counting inconsistencies. You've heard several people
23 speak to that this morning dealing with the inerts issue.
24 And additionally, we've been asked in our working groups
25 to deal with special waste issues differently as well.

1 The group also recommended removing ten percent
2 diversion credit limit for direct burn transformation of
3 forest debris.

4 --o0o--

5 MS. VAN KEKERIX: The working groups also felt
6 that additional training was going to be critical in order
7 to make improvements to the diversion rate system work as
8 quickly as possible out in the field.

9 So they asked that the Board train facility
10 operators and counties to increase knowledge of the
11 diversion rate measurement system; that we expand our web
12 site to increase the number and types of reports that we
13 have there; and they also requested that the Board provide
14 standard curriculum training for local government staff.

15 There were several things that the working groups
16 looked at that they felt were ideas that had merit, but
17 needed further study.

18 These include increasing responsibility for
19 diversion by generators of hard to handle wastes, such as
20 cathode ray tubes, revisiting transformation limits, and
21 evaluating jurisdiction performance based solely on
22 diversion program evaluation.

23 --o0o--

24 MS. VAN KEKERIX: The draft recommendations are
25 contained in the report, as I said, before. The synthesis

1 working group and staff recommendations are included in
2 the table. The Board recommendations may differ from both
3 of those two groups.

4 --o0o--

5 MS. VAN KEKERIX: We see that the options the
6 Board has is to approve the report and the recommendations
7 in it, approve a modified report and modified
8 recommendations or direct staff to modify the report and
9 recommendations and bring it back to the Board for
10 consideration in December.

11 --o0o--

12 MS. VAN KEKERIX: Once we get the Board's
13 recommendations, the next steps in order to get this to
14 the Legislature and to implement any Board recommendations
15 are to direct staff to work with the Office of Public
16 Affairs and Legislative Office to forward the report to
17 CalEPA and the Legislature, and for implementation to
18 direct staff to develop a workplan to implement the Board
19 recommendations and present that workplan for board
20 consideration in the near future.

21 Any questions?

22 CHAIRPERSON MOULTON-PATTERSON: Questions?

23 We do have a speaker and then we'll come back.

24 Dave Ault, Republic Services.

25 MR. AULT: Good afternoon, Madam Chairman and

1 Board Members.

2 I want to first thank the staff for allowing me
3 the opportunity to be on the disposal reporting group in
4 working with the synthesis group. It was a really
5 enjoyable experience working with people from throughout
6 the entire State.

7 There are two things that I would like to share
8 with you that I feel are very important and probably need
9 a little additional highlight.

10 They're both fairly easy to address. First,
11 would be the incentives or removing disincentives for
12 regional reporting agencies. In all of our research we
13 found out that the larger the jurisdiction reporting area
14 the more accurate the information. And, quite frankly,
15 with over 500 -- close to 550 reporting jurisdictions in
16 California, we're subject to pretty extreme ebbs and flows
17 of tonnage reporting.

18 So whatever we can do to encourage
19 regionalization reporting, I think it would be extremely
20 beneficial to the accuracy of our data for the disposal
21 reporting systems.

22 I would just like to give you one example in
23 Orange County. The cities of Fountain Valley and
24 Huntington Beach are both served by the same hauler,
25 Rainbow Disposal. They both have identical programs and

1 the cities are contiguous to each other. Yet one city is
2 in compliance and the other city, preliminary numbers is
3 noncompliance.

4 If this was a regional reporting agency, both
5 cities would be in compliance and you'd have half the
6 paperwork. And, again, one less city for board and staff
7 members to deal with. So I think there's some natural
8 fits in here that would be excellent statewide.

9 We have a number of jurisdictions ourself that
10 we've combined. The problem is each city thinks their
11 trash is better than the next city's trash, so there needs
12 to be some incentive as elected folks, which most of you
13 are. You know that we always think that our city, our
14 jurisdiction is the best. But as a trash man and being
15 one of the token trash members of the working groups, I
16 can tell you that trash is very similar, but it's very
17 difficult to tell city officials that.

18 (Laughter.)

19 MR. AULT: But, again, if there's anything the
20 Board can do as far as incentives, be it monetary to help
21 the cities in their legal costs of putting this together
22 or possibly even with three or more jurisdictions together
23 allow some kind of incentive on the numerical compliance.
24 It would be a very good idea, and again from a hands-on
25 approach, I think it made a lot of sense.

1 And, again, trying to be brief, the other one
2 which is near and dear to my heart, and I follow the rain
3 at a symposium last week on this and that's inert disposal
4 reporting.

5 I don't if you've got a copy of what I prepared
6 for you for Orange County, but for years I thought inert
7 disposal reporting, a new way in reliance bid, was
8 consistent statewide and not really until I got on this
9 committee or disposal reporting committee to find out that
10 these facilities were reporting differently than the rest
11 of the State, material handled exactly same way.

12 I don't advocate that inerts that are put into a
13 mixed waste disposal should not count. They should. In
14 fact, they should probably count three or four times, so
15 you shouldn't put them there at all.

16 But if you use for land or mine reclamation inert
17 material, it shouldn't count on the disposal reporting
18 system. It also was removed from the SREs in our base
19 year tonnage. Any diversion credit or any disposal
20 amounts were removed in our original documents to you.

21 So to pile with inerts that are going to these
22 three facilities or Orange County cities, and I've listed
23 them all there, basically adds about a five percent burden
24 to Orange County, because none of the cities in Orange
25 County have this material in their base year

1 consideration.

2 Now, at 176,000 tons in 2000, if you would look
3 at about a \$50 cost of diverting material, that's an
4 annual cost to the rate payers of about \$9 million for
5 what I consider a very unfair reporting system. Now, I
6 understand by statute we're required to do this under the
7 current conditions because these facilities are permitted
8 landfill sites.

9 But they were permitted for basically the San
10 Gabriel River basin water concerns not on disposal
11 concerns of reporting.

12 So, again, whatever we can do in our report under
13 SB 2202 to correct this, it would be greatly appreciated.
14 And the example, again, I showed you, there are four
15 cities in Orange County that are not in compliance now,
16 that would be in compliance if inerts were removed from
17 the system. And, again, finally, I don't want to be
18 negative, it was a great experience and I hope some of our
19 recommendations will help with the disposal reporting
20 system.

21 Thank you.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you.

23 John Davis followed by Mike Mohajer.

24 MR. DAVIS: Madam Chair and Board, John Davis
25 Mojave Desert Mountain Integrated Waste Management

1 Authority. I was fortunate enough to be able to
2 participate on the alternatives working group, and on the
3 synthesis group. And I really want to commend you for
4 initiating that effort and Lorraine and all the staff that
5 we got to know and work with.

6 I think you have the opportunity here to develop
7 a document in this report to the Legislature that would
8 really go a long way to building consensus amongst all the
9 groups that participated in this process.

10 I don't know the final count, how many people
11 were involved in these working groups, but there was a lot
12 of discussion. There was a lot of exchange of knowledge
13 and information, and people spoke very candidly and very
14 patiently. And the recommendations that came forward
15 didn't come out of a void, they came out of a lengthy
16 process. And we don't agree with staff on some of the
17 recommendations that you're going to have to resolve. I'm
18 not sure you form one, a particular one, where the entire
19 synthesis group said no and the staff recommendation is
20 yes.

21 You're going to have to resolve that sort of
22 thing to send it forward, and clearly there's a lack of
23 consensus. But you look beyond a few instances like that
24 and we have the opportunity here to all stand together
25 with some recommendation of some problems and some

1 solutions to the problems.

2 And you've heard me many times encourage you to
3 look to the zone administrators, work with us on market
4 development issues. We do that daily. We think about it
5 all the time. We do it at the local level. And I would
6 say that was a big reason that I was in this group.

7 I think what you've done here is start some
8 dialogue and some process and some consensus building and
9 ways to go forward that really is noteworthy, and I hope
10 that we'll all have a chance to continue having some input
11 to it. But I hope that you look at the whole document
12 with the thought and the effort that went into it.

13 So thank you for the opportunity.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Davis.

16 Mike Mohajer, LA County Public Works.

17 MR. MOHAJER: Madam Chair and Members of the
18 Board, my name is Mike Mohajer with LA County Public
19 Works. Like the previous speakers, I also want to thank
20 the Waste Board, Pat and Lorraine and their staff for
21 doing a tremendous amount of work putting this report
22 together.

23 And overall we are in support of the document.
24 There are a couple of items that we have various issues
25 with in the past, and we'd like it to be addressed in the

1 report.

2 The first one really gets involved with the issue
3 of the accuracy and the margin of error with the disposal
4 reporting system that really it has not been addressed.
5 The problem that we have for this issue not being
6 addressed goes back to the enforcement policy that the
7 Waste Board has adopted that measures the jurisdiction's
8 compliance on two items, one, achieving mathematical
9 compliance and implementing the programs that are listed
10 in the SRRE.

11 So if you don't know the margin of errors and the
12 disposal reporting systems, so how can you measure the
13 jurisdiction's achievement of 50 percent?

14 So we believe as a part of addressing the problem
15 for the disposal reporting system, the margin of error has
16 got to be addressed in the report. And hopefully as we
17 move forward, the Board and the staff will consider this
18 matter and try to establish some kind of mechanism.

19 The second issue is in reference to the executive
20 summary. There is a certain statement that has been made
21 both by the working group, the synthesis group and the
22 staff as well. And I'm just going to hope and pass the
23 statement that we'd like to be also included in the
24 executive summary. And I'm going to quote -- and this is
25 listed on the page 3-5 and 3-6 of the 1026 Reports.

1 Quote, "The working group believes
2 that more emphasis should be put on
3 diversion programs than on disposal,
4 tonnage and diversion rates. The group
5 feels that the Board should recognize
6 that there is the potential for
7 significant errors in the disposal
8 reporting system. The disposal
9 reporting system is an estimate of
10 jurisdiction disposal, and therefore the
11 numbers should be used solely as an
12 indicator rather than as an exact
13 measurement of the jurisdiction's
14 progress toward meeting their diversion
15 goal.

16 "The Board should look at diversion
17 rates as an indicator and focus on
18 diversion programs, implementation and
19 good faith efforts. Board staff
20 supports this recommendation" period,
21 end of quote.

22 This is pretty important. And the reason that we
23 are emphasizing this is generally when you look at the
24 report the decision makers are going to be looking at the
25 first few pages or maybe the first page to get some sense

1 of the report. And that's why we believe this statement
2 is pretty important to be included in the executive
3 summary, even though it is in the report.

4 So having said those two, we believe the report
5 has done a fairly good job. And it's from a personal
6 standpoint I've been coming before this Board for the past
7 two and a half to three years. And going back to June of
8 1999, I keep talking about the problem in the disposal
9 reporting system.

10 So it sort of looks like that there may be a
11 light at the end of the tunnel. I don't know what is
12 going to happen with the report. It hopefully is not
13 going to go sit on the shelf and collect dust.

14 But having said that, that pretty much concludes
15 my discussion as far as the public works is concerned.
16 But I also got a letter from the City of Arcadia that they
17 would like me to read it into the record. But I'd try to
18 save time, if you don't mind, I have distributed a copy.
19 They would like it to be included.

20 CHAIRPERSON MOULTON-PATTERSON: We received it.

21 MR. MOHAJER: And having said that, I just want
22 to read the last paragraph of the statement that the City
23 of Arcadia made, which pretty much goes again with the
24 issue of inert waste and the depleted gravel pit that's
25 being used for a landfill that was discussed this morning

1 on Item 16. Dave Ault says, and he said it pretty well,
2 and this is what this letter also says.

3 "The City of Arcadia strongly urges
4 the California Integrated Waste
5 Management Board to include the
6 recommendation of excluding inert
7 materials not subject to the Board of
8 Equalization fee and disposed at a mine
9 reclamation facility from the disposal
10 reporting system including those
11 permitted in Los Angeles county into the
12 SB 2202 report to the Legislature."
13 Thanks very much.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Mohajer.

16 Before I bring it back to our board members for
17 comments and/or action, I did want to thank Ms. Van
18 Kekerix.

19 MS. VAN KEKERIX: Lorraine.

20 CHAIRPERSON MOULTON-PATTERSON: And Mr. Schiavo.
21 And also I would like to recognize all of the people that
22 have worked on it. I understand in the back row there's a
23 lot of people, would you stand and let us recognize you,
24 because this was a big job. The back row, didn't you work
25 on it?

1 Well, everybody who worked on it stand up and let
2 us give you a big hand.

3 (Applause.)

4 CHAIRPERSON MOULTON-PATTERSON: Thank you very
5 much to all of you, the working group, the staff it really
6 was quite an effort.

7 And with that other comments, motions?

8 BOARD MEMBER JONES: Madam Chair.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I think that staff, even the
11 bashful ones in the back, did a great job as well as all
12 the stakeholders.

13 I do think that -- I'll be more than happy to
14 make the motion. I'd like to see -- there are some
15 recommendations that probably need to happen sooner than
16 later. So I'm wondering if there is a plan or if you need
17 some direction to look at some of these items that either
18 board members have talked to you about or whatever.

19 I think the idea of going in and working with
20 local jurisdictions or operators on the importance of DRS
21 and what that means is something that we ought to try to
22 think about how we can do.

23 You may want to talk to, you know, Rubia and Don
24 Dier. I mean they've got part of a training program.
25 Maybe some of that can be incorporated, I don't know.

1 But I think that the more that the operators
2 understand the importance of the DRS system, the better
3 it's going to be as far as it coming full circle so that
4 you're getting better data, because they'll appreciate how
5 important it is.

6 And I think maybe we do, if it's not already in
7 here, maybe we do need to at least put a sentence or two
8 in about looking at the inert issues that are in that San
9 Gabriel Valley, I don't know.

10 CHAIRPERSON MOULTON-PATTERSON: I would like to
11 see that added.

12 BOARD MEMBER JONES: You want to see that. And
13 just say that we want to look at the fact that there's
14 three permitted facilities that take inert waste and by
15 statute we have to account for that material. It is
16 creating a problem. You know, some folks think we
17 shouldn't count it as either disposal or diversion, which
18 is -- if we made it neutral, it would be consistent with
19 the other 18 facilities. But is there --

20 MS. VAN KEKERIX: We have two places in here
21 where we refer to the upcoming construction and demolition
22 regulations as a place to address that. Do you want to --

23 BOARD MEMBER JONES: We may want to just
24 highlight -- put it in the report to highlight that, that
25 we may need to do a legislative fix, if we can't figure

1 out another way to do it. Isn't that what this report is
2 for, is to give them a heads up?

3 CHAIRPERSON MOULTON-PATTERSON: Yes.

4 BOARD MEMBER JONES: Well, I'm not advocating how
5 it needs to be fixed, just to make the Legislature aware
6 that we are faced with an issue of three out of 19
7 facilities that get treated differently.

8 CHAIRPERSON MOULTON-PATTERSON: Yes, definitely.

9 Thank you.

10 Mr. Paparian, did you want to make the motion or
11 did want to speak to it first?

12 BOARD MEMBER PAPARIAN: Yeah. I just had a
13 couple quick things. As long as the wording on that is
14 neutral as to what we ultimately want to see happen,
15 that's fine with me.

16 BOARD MEMBER JONES: Just to make them aware of
17 the issue, Mr. Paparian.

18 BOARD MEMBER PAPARIAN: And then I also wanted to
19 mention, you know, Mr. Mohajer sent us a series of letters
20 complaining about different things not being included in
21 here. And just for the record, I've looked through his
22 letter very carefully. I've looked through the document,
23 and Mr. Mohajer I feel like your issues have been
24 addressed, but perhaps not in the way that you want them
25 addressed.

1 I think Mr. Larson could probably verify that
2 sometimes we do deal with issues but not always in the way
3 that advocates for one cause or another like to see them
4 addressed. Just in defense of the staff, you know, as I
5 look through the document I think that they considered the
6 concerns of the county of Los Angeles and incorporated
7 them in the best way that they thought appropriate. And
8 as I read the document, I see them reflected in the
9 document itself.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
11 Paparian.

12 Mr. Jones.

13 BOARD MEMBER JONES: Madam Chair, with those just
14 couple of suggestions, I'd like to move adoption of
15 Resolution 2001-450, consideration of approval of the SB
16 2202 draft report to the Legislature titled, A
17 Comprehensive Analysis of the Integrated Waste Management
18 Act Diversion Rate Measurement System.

19 BOARD MEMBER MEDINA: Second.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
21 motion by Mr. Jones seconded by Mr. Medina to approve
22 Resolution 2001-450.

23 Please call the roll.

24 SECRETARY FARRELL: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY FARRELL: Jones?
2 BOARD MEMBER JONES: Aye.
3 SECRETARY FARRELL: Medina?
4 BOARD MEMBER MEDINA: Aye.
5 SECRETARY FARRELL: Paparian?
6 BOARD MEMBER PAPARIAN: Aye.
7 SECRETARY FARRELL: Roberti?
8 BOARD MEMBER ROBERTI: Aye.
9 SECRETARY FARRELL: Moulton-Patterson?
10 CHAIRPERSON MOULTON-PATTERSON: Aye.
11 Motion approved.
12 Number 19.
13 DEPUTY DIRECTOR SCHIAVO: Okay. Item number 19
14 is Consideration of Action on the Submittal of Integrated
15 Waste Management Plans as Required by AB 75 That Have Been
16 Deemed Incomplete for the Following State Agencies and
17 Large State Facilities. These include the 3, California
18 School for the Deaf in Fremont; Rio Hondo Community
19 College; and Sierra Joint Community College District and
20 Campus.
21 And Al Chaney will be making this presentation.
22 MR. CHANEY: Good afternoon, Madam Chair and
23 Members of the Board.
24 CHAIRPERSON MOULTON-PATTERSON: Good afternoon.
25 Sorry.

1 MR. CHANEY: My name is Al Chaney and I will be
2 making the presentation on Agenda Item number 19.

3 (Thereupon an overhead presentation was
4 presented as follows.)

5 MR. CHANEY: Before I get started with my
6 presentation, I just would like to mention that my
7 presentation is based on previous agenda items of a
8 similar nature and will be consistent within those
9 particular formats for State agencies that have submitted
10 incomplete plans.

11 The item is consideration of the action of the
12 submitted Integrated Waste Management Plans as required by
13 AB 75 that have been deemed incomplete for the following
14 State agencies, again, just to review, California School
15 for the Deaf, Fremont; Rio Hondo Community College, Sierra
16 Joint Community College District.

17 To summarize, the Public Resources Code 42920
18 requires each State agency to submit an integrated waste
19 management plan. To date, approximately 462 agencies have
20 submitted integrated waste management plans, three
21 previously mentioned State agencies following the category
22 of those that have submitted incomplete integrated waste
23 management plans.

24 Notwithstanding the Public Resources Code Section
25 42920, provides that if State agencies have not completed

1 Integrated Waste Management Plans submitted or if they are
2 found to be incomplete by the staff, here at the
3 Integrated Waste Management Board, then it requires our
4 staff to work in consultation with the State agency
5 affected to submit a complete integrated waste management
6 plan.

7 Previous action by the Board. May 23rd, the year
8 2000, the Board basically approved procedures for
9 approving and reviewing integrated waste management plans.

10 With that, there are several options that are
11 available basically before the Board. As provided in
12 Public Resources Code 42920, we could find that the
13 following submitted integrated waste management plans to
14 be incomplete and to also disapprove them. Within this
15 also, the option is to have staff direct -- for the Board
16 to have staff to work with the State agencies to
17 facilitate and adopt an integrated waste management plan
18 with consultation with the Board and also with the State
19 agencies affected.

20 Another option is that the Board can approve the
21 submitted integrated waste management plan and direct
22 staff to work with the State agencies in preparing them
23 for the upcoming annual report, which is due on April 1st,
24 the year 2002.

25 Another option that the Board basically has

1 available is to notify that the State agency and large
2 facilities that a letter will be sent to the Governor and
3 to the Legislature notifying them of the action basically
4 of noncompliance.

5 Or another option for the Board basically is that
6 the Board basically can take no action and direct staff
7 until the December board meeting.

8 Based upon this, staff's recommendation is for
9 number one and that would be to provide, that is provided
10 within the Public Resources Code number 42920, find the
11 submitted integrated waste management plans incomplete and
12 disapprove them, and also to direct staff to work with the
13 State agencies and large facilities within consultation to
14 submit and approve an integrated waste management plan.

15 This basically concludes my presentation.

16 Are there any questions?

17 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
18 Chaney.

19 Any questions?

20 BOARD MEMBER JONES: Madam Chair.

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

22 BOARD MEMBER JONES: I'll move adoption of
23 Resolution 2001-448 consideration of action on the
24 submittal of integrated waste management plans as required
25 under AB 75 that have been deemed incomplete for the

1 following State agencies and large facilities.
2 BOARD MEMBER MEDINA: Second.
3 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
4 motion by Mr. Jones seconded by Mr. Medina to approve
5 resolution 2001-448, option one.
6 Please call the roll.
7 SECRETARY FARRELL: Eaton?
8 BOARD MEMBER EATON: Aye.
9 SECRETARY FARRELL: Jones?
10 BOARD MEMBER JONES: Aye.
11 SECRETARY FARRELL: Medina?
12 BOARD MEMBER MEDINA: Aye.
13 SECRETARY FARRELL: Paparian?
14 BOARD MEMBER PAPARIAN: Aye.
15 SECRETARY FARRELL: Roberti?
16 BOARD MEMBER ROBERTI: Aye.
17 SECRETARY FARRELL: Moulton-Patterson?
18 CHAIRPERSON MOULTON-PATTERSON: Aye.
19 Okay. That brings us back --
20 MR. CHANEY: Thank you, Madam Chair and Board
21 Members.
22 CHAIRPERSON MOULTON-PATTERSON: Okay, I'm sorry.
23 Thank you.
24 Who's speaking?
25 Oh, okay, thank you.

1 Sometimes I can't hear where the voice is coming
2 from.

3 Okay, thank you. As many you know that were here
4 this morning, we did trail Item number 7 to the end of the
5 meeting, and we've gotten some revised language on it, but
6 I also have a speaker's slip, but I'll turn it over to
7 you, Ms. Jordan, and then to Ms. Avila.

8 DEPUTY DIRECTOR JORDAN: Yes, thank you. Good
9 afternoon, again. Madam Chair and Board Members, Terry
10 Jordan with the Executive, Administration and Finance
11 Division returning for further discussion on Item 7,
12 Consideration of Approval of Selected Grant Scoring
13 Criteria, Evaluation Methods and Processes for all
14 Competitive Grant Programs.

15 As requested this morning, Members have been
16 provided with a copy of the June 9th, 1999 Board adopted
17 Resolution number 1999-157, revised, to address the
18 Integrated Waste Management Board's in-house waste
19 reduction and recycled content and product procurement
20 policy.

21 The policy does address grant programs. The
22 third bullet from the bottom with regards to, "Where
23 appropriate and feasible, the Board shall require grant
24 recipients to use recycled content, recyclable or reusable
25 products or practice other waste reduction efforts" or

1 "measures," excuse me.

2 That being said, staff has amended the resolution
3 for Item 7 number 2001-464 to reflect the revisions not
4 previously incorporated and to address the Board's
5 discussion this morning on green procurement, geographic
6 distribution and tied scores. And I believe those have
7 been distributed also.

8 Revisions to those areas or the resolution
9 include setting a standard with consideration for
10 flexibility by the Board for program staff to address the
11 variety of program requirements and subscription of grant
12 programs.

13 The changes include language also that requires
14 that staff present justification at the time the scoring
15 criteria and evaluation process is brought to the Board
16 for approval. Sara Avila will continue to present the
17 other items that we didn't finish on number 7.

18 MS. AVILA: Sara Avila with the Financial and
19 Assistant Branch.

20 The third item, the green procurement, what we're
21 going to recommend for the new recommendations for the
22 green procurement is the Board grant scoring criteria form
23 shall be revised to reflect the green procurement policy.

24 The evaluation criterion, evidence that a green
25 procurement policy should be valued at 15 percent of the

1 total points used to determine eligibility, whether that
2 determination is made solely upon the general review and
3 scoring criteria, a combination of the general review and
4 scoring criteria, and program scoring criteria or any
5 other methods used by board staff.

6 Any deviation of the 15 percent evaluation would
7 require Board approval at the time the criteria and
8 evaluation process agenda item is presented. Staff shall
9 describe any proposed deviation from this requirement in
10 the agenda item and verbally during the presentation of
11 the item requesting board approval of the scoring criteria
12 and evaluation process.

13 The fourth item is geographic distribution of
14 funds. Where grant programs have not received sufficient
15 applications to support the geographic distribution of
16 funds, then the most qualified applicants, regardless of
17 vocation, will be funded. On occasion, the Board directed
18 applications be divided and awarded based on the
19 Department of Finance's figures on the geographic
20 distribution of the State's population.

21 Staff recommends the Board direct staff to award
22 grants to the highest ranking proposals based upon the
23 geographic distribution of State's population as
24 determined by the Board approved general review evaluation
25 criteria process.

1 If approved by the Board, staff will use the most
2 current Department of Finance estimated population
3 figures. If grant staff believes that the fundamental
4 purpose of the grant would not be served by the geographic
5 distribution, then grant staff must present justification
6 at the time the scoring criteria and evaluation process is
7 presented to the Board for approval.

8 The last item is tied scores. All proposals are
9 ranked according to the total number of evaluation points
10 received. On occasion, grant requests among applicants
11 with tied scores exceeding the remaining funding can be
12 available. Grant staff part of the scoring criteria and
13 evaluation process have requested Board approval for a
14 random number generation system to pit the applicants for
15 funding.

16 Another method which has proven effective has
17 been for the Board to divide the remaining funds among the
18 tied applicants. As an alternative to these processes, it
19 was suggested at the August 2001 board meeting that in the
20 event of a tied score, the Board should determine how the
21 remaining funds should be distributed.

22 Staff recommends at the time program staff brings
23 this scoring criteria and evaluation process forward for
24 approval, the Board will determine how tied scores will be
25 broken. Where grant requests among applicants and tied

1 scores exceed funding availability, the ties shall be
2 brought forward to the Board in an agenda item and the
3 Board shall make the determination of which applicant
4 shall receive the award, as long as staff has made the
5 determination that the scaling down of the proposed
6 projects resulting in decreased grant requests could not
7 be accomplished successfully.

8 This concludes my presentation.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
10 Avila. And I apologize for having to break your
11 presentation in two. We appreciate you coming back this
12 afternoon.

13 Any questions or comments before the speakers,
14 one speaker?

15 Mr. Eaton.

16 BOARD MEMBER EATON: I just have one question
17 with regard to tied scores. At the time program staff
18 brings the scoring criteria and evaluation process
19 forward, isn't that where we are right today? We're
20 trying to set up the criteria, are we not, the scoring
21 criteria? So today is the day we have to determine how
22 the ties are being broken under this language.

23 DEPUTY DIRECTOR JORDAN: What we're --

24 BOARD MEMBER EATON: It says right here, aren't
25 we talking about scoring criteria today?

1 DEPUTY DIRECTOR JORDAN: Yes, we are.

2 BOARD MEMBER EATON: So today we have to
3 determine how the ties are going to be broken under this
4 language.

5 CHIEF COUNSEL TOBIAS: May I try to answer?

6 BOARD MEMBER EATON: Let me just finish here,
7 Counsel. You know, we had it right when we talked this
8 morning. This is an issue, you don't have to complicate
9 it with the process. This is a very fair issue that I
10 believe that we, as six board members, can make up our own
11 minds. This is simply that if you have 15 successful
12 applicants who have a passing score and there's limited
13 amount of funds, then we as a board ought to be able to
14 determine it because the grants are up to \$25,000 or up to
15 \$50,000.

16 We ought to be able to make a determination, the
17 six of us, as to how we think fairly and equitably these
18 funds ought to be distributed, based upon if they receive
19 a passing score. We do not need to get into a situation
20 where the process is submerged within the bureaucracy.
21 It's the sunshine process, and the sunshine process says
22 if there's ties or it's only your recommendation as to
23 what should we fund it at what level, then we as a board,
24 which we've done successfully in the past, try to reach
25 some accommodation on what programs are worth it.

1 I mean, we did it with regard to the issue in
2 Santa Cruz. We've done it with the issues with Oil and
3 Tire. I don't think we have to complicate it. The issue
4 is is that there's ties and passing scores. It's up to
5 the Board to determine how the funds should be distributed
6 and under what is an equitable manner.

7 That is not a process by which can be challenged.
8 In fact, if anything, it's a much more open process,
9 because it would be done in a public forum not with some
10 sort of scoring criteria made up of individuals who are
11 faceless.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
13 Eaton.

14 Ms. Tobias.

15 CHIEF COUNSEL TOBIAS: I think just to try to
16 clarify the purpose of this board agenda item is to set
17 out some policies that will apply to the criteria that are
18 important. On each grant that comes forward, we always
19 set out different levels or different types of criteria.
20 So what this particular item is saying is that when each
21 one comes forward, staff would, at that time, bring it
22 forward, and these would be discussed.

23 So I wasn't sure that I quite understood what you
24 said on the last one, Mr. Eaton, that these would come
25 forward.

1 The other point that I'd bring up that the legal
2 office feels on this issue of the ties is that if the
3 Board does want to decide ties, we feel that the criteria
4 that you're going to use to decide those ties would need
5 to be set out at the beginning when you decide these
6 criteria. Otherwise, the applicants in the processes
7 really have no way of knowing what that final
8 determination might be in terms of what things might turn
9 on.

10 So what we are trying to do is set out a process
11 in this full agenda item that is fair, is equitable, that
12 the applicants have as much information as possible, that
13 the Board has a maximum ability to set out the criteria
14 and really determine at the very start how the process is
15 going to work, and what's important to them and perhaps
16 what's not so important.

17 CHAIRPERSON MOULTON-PATTERSON: Wouldn't it be
18 less complicated just, you know -- with respect to you,
19 Ms. Tobias, but couldn't we just say ties will be decided
20 by the Board? We are a public board. That's why we were
21 appointed. We represent different sections. I don't
22 understand why that can't just be said.

23 CHIEF COUNSEL TOBIAS: It can. I think that's
24 why I said it's the legal office's opinion that what
25 probably would be most fair and with as much information

1 as possible to applicants is to know how the Board might
2 make that decision. The way we've done in the past has
3 either been a random -- as far as I remember, is either a
4 random approach or I think a lot of times the Board has
5 basically taken the remaining money and tried to make sure
6 that the applicants who are tied at the bottom have gotten
7 something.

8 Sometimes that works and sometimes it doesn't, if
9 they can't, you know, make enough of a project out of that
10 money.

11 I think what the Board might have trouble with is
12 when they get to that is how to choose among, you know,
13 two applicants at the bottom as to A or B whether who's
14 going to get that money.

15 CHAIRPERSON LLOYD: Senator Roberti.

16 BOARD MEMBER ROBERTI: We're not talking about a
17 situation where we're starting from the beginning. We are
18 talking about now the very fine tuning of splitting a
19 hair. And as long as we're doing it publicly, making a
20 hopefully rational decision as to how we reach what we
21 reach, I may want to weigh, because of my articulating
22 feelings, one of the criteria much stronger than Mr. Eaton
23 who wants to weigh another one and we just voted it out.

24 I think counsel's position, and I respect her
25 caution, but I think counsel's position is really based

1 somewhat on the premise that we're starting from the
2 beginning. We aren't. So I feel safe that we can decide
3 a tie as long as we can justify it upfront, based on,
4 well, I want to stress criterion A because of the
5 conditions that existed on September, whatever the day,
6 the 13th, 2001, and, you know, I feel comfortable in doing
7 that.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,
9 Senator.

10 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
11 Excuse me.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

13 BOARD MEMBER JONES: Thank you. I appreciate
14 that, and I support that 100 percent. We've sat at this
15 dais before on a couple of grants and really looked at
16 them and asked an applicant or told an applicant that we
17 thought it needed to be reduced a little bit to free up
18 money to take care of four or five others. And it's funny
19 because really what we're talking about here is who has
20 the choice, us or them.

21 But that's how that broke down just a minute ago.
22 So I think we get paid to make that choice. So I think it
23 needs to come up here and, you know, we'll do a little
24 fandangling and see what we can do and hopefully get the
25 money to a few more people than we could have.

1 I don't support taking -- I mean as long as
2 they're numbered, they need to come in numbered, we keep
3 them in that order, and then if there's four at 70, then
4 those are the ones we play with, not 71, because 71 scored
5 higher. So I mean under that, I have no problem.

6 One of the things I'd like to bring up, Madam
7 Chair, is I talked to Jerry Hart a little bit about some
8 stuff he's putting together for the State buy-recycled
9 program, that may be helpful for Admin. In fact, he may
10 be working with Admin on that. And, Jerry, I don't mean
11 to steal your thunder, but I thought it was a heck of an
12 idea.

13 That he's actually got a little matrix to not
14 only -- for people that say they've got a green
15 procurement program, but identify what they're doing. It
16 might be worth working with Mr. Hart, and, Jerry, I really
17 apologize if you were going to bring this forward, but it
18 is a heck of an idea and it needs to be looked at. And he
19 just caught me as we were walking in here.

20 And the other thing is, I think all of the deputy
21 directors are kind of responsible for their own grants and
22 stuff. And as part of this we may want to say they can be
23 responsible for the grants, but Admin has to look over
24 them and make sure that the criteria meets what the Board
25 wants or something like that. I guess it's a delegated

1 authority of Mr. Leary. But, you know, Admin is getting
2 beefed that people aren't following the criteria, but it's
3 not Admin that's got control over those grants. It's
4 those individual departments.

5 So, you know, and I have no problem with beefing
6 them out, but I'm just saying if we're going to, we ought
7 to say that they've got either some kind of an
8 administrative check off that it's met all the criteria,
9 and that might -- I mean, Mr. Leary, I'm not trying to get
10 into your business. I mean this is your decision to make,
11 but it would be more consistent for this Board, because we
12 see grants and contracts from every division. And so
13 there is not one person to hold accountable for that
14 structure.

15 And if we said that Admin had to alternately make
16 sure it went through, then that would take care of your
17 issue, Senator, and, I think, some of ours. And I think
18 it was just something that never came up, because I always
19 assumed, in fact, I said it I think at the briefing, there
20 was something I thought was consistent and it didn't go
21 through.

22 BOARD MEMBER ROBERTI: Madam Chair.

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina then
24 Senator Roberti.

25 BOARD MEMBER MEDINA: I agree with the previous

1 speakers. And if we have to write in the words, "coin
2 toss by board members," so be it.

3 (Laughter.)

4 BOARD MEMBER MEDINA: Actually, I had a minor
5 change to the resolution on the last page where it says,
6 "And the Board shall make the determination of which
7 applicant shall receive the award as long as..." I wanted
8 to change the word, "as long as" rather ambiguous, I
9 wanted to change that to, "when staff has made the
10 determination."

11 And in regards to the resolution itself, you
12 know, I'm very happy to see this resolution that includes
13 environmental justice, indian tribes, the green
14 procurement language and all the other language in it.
15 It's a very good resolution, I'd be happy to move it at
16 the appropriate time.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Senator.

19 BOARD MEMBER ROBERTI: Yes. Madam Chair, I'd
20 like to return to something that was of concern to me
21 during the morning session. And that is my concern that
22 in our desire to have a hands-off approach in order to
23 structure fairness, we have to be very careful that we
24 don't abdicate our power as a board to the staff.

25 Frankly, I cannot emphasize my distress over the

1 fact that for two years on grants I have been voting
2 believing the staff has been implementing our policy when,
3 in effect, and I know everybody may not agree with me on
4 this, when, in effect, staff has obviously been
5 implementing its policy.

6 And for two years of not having a green
7 procurement policy, when I can't think of any discussion
8 we had that was more clear, more concise, more direct to
9 the staff and then we come here and we are told that we
10 decided not to do it.

11 We decided not to even inform you that we weren't
12 doing it, and that there was a problem. It goes to the
13 old adage that, you know, board members come and board
14 members go, but the staff is here forever.

15 And that's a cute one we talk about, but when
16 we're talking about the public policy of the State, it's
17 unconscionable. I've never lectured the staff before
18 because I have the highest degree of respect for their
19 expertise, but this was unconscionable. It was based on
20 the premise that board members come and board members go
21 and the staff is here forever and we're not going to
22 implement it and we're not going to tell you about it
23 either.

24 That's why Mr. Eaton's position on the tie vote
25 is very, very important. But I would go even further, and

1 I would commend to the staff -- to the Board Members
2 thinking about it that once in a while we actually, I hate
3 to say it, ought to do the scoring ourselves. Maybe every
4 six months take one of our projects and do the scoring
5 with the help of staff, with the help of counsel. It's
6 going to bog us down a little bit, but there's no way to
7 supervise our own staff unless we know what they're doing,
8 unless we know what criteria they are using.

9 And, obviously, I don't have a clue, because I
10 thought for two years the green purchase power was being
11 implemented and I find out it wasn't.

12 And then there are just disagreements that
13 reasonable people come to when you talk about a public
14 policy itself. For example, to make it very, very
15 simplistic, we establish a directive that everything has
16 to be on blue paper. And so then the issue is, yeah, but
17 it was turquoise paper.

18 I'm being simple, but I'm trying to make a point.
19 Some people will say well, that's clearly blue, and others
20 will say, no, that's green or something in between.
21 Reasonable people can disagree. It doesn't mean they're
22 not trying to implement the policy. It's just that it's
23 implemented differently by reasonable people seeing blue,
24 turquoise and green differently.

25 How do we know that, and how do we know how staff

1 is implementing the program, unless we, at times, do it
2 ourself?

3 And I know it will bog us down, and I don't look
4 at that excitedly, because it's an area of power that I
5 necessarily don't want to engage in. But right now I
6 submit, I'm speaking for myself, after nearly three years
7 on this Board, I think I'm kept in the dark. And I don't
8 say that with anger, I say it because it's just the way
9 the bureaucracy works.

10 On such a major policy where we spent the better
11 part of one day discussing it, one session, and when we
12 just decided not to do it, there was a problem and nobody
13 bothered to come and tell us about it either on something
14 that goes to the heart of what this Board does,
15 procurement.

16 I think we have to relook, and this is a switch
17 in my position from last week when I talked to counsel and
18 said no, I don't want to do anymore micro-managing. But
19 the fact is I think we've got to micro-manage because if
20 we don't micro-manage, staff is going to micro-manage for
21 us, and we will truly be what bureaucracy wants boards to
22 be and that is a rubber stamp.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you.

24 DEPUTY DIRECTOR JORDAN: Chairman?

25 CHAIRPERSON MOULTON-PATTERSON: Yes, Ms. Jordan.

1 DEPUTY DIRECTOR JORDAN: Can I address the
2 Senator with regards to raising this issue.

3 I understand what you're saying. I would like to
4 clarify that staff have implemented the '99 requirements.
5 As I mentioned before, that particular bullet talks about
6 grant recipients, that's after the award.

7 It has been incorporated into the terms and
8 conditions of the grant agreements that they follow these
9 procedures. What hasn't been done is it's not been put
10 into all of the grants as far as the actual screening
11 criteria, because they're not recipients at that point.

12 BOARD MEMBER ROBERTI: I understand that and I
13 appreciate that. So I give staff credit for trying to do
14 something along the lines of what we talked about.

15 But if my recollection to date is even remotely
16 clear, and I think it is, we were talking about the grant
17 as it was before it was to be awarded not after the fact,
18 and not a language that exhorts the recipient or even goes
19 further than and exhortation to do well.

20 And I think we were talking about the award
21 itself, a priori. And I haven't reviewed the text of the
22 discussion of December of 1999, but I have a hunch that if
23 we do review it, we will find that it was clear we were
24 talking about the award itself and not something after the
25 fact.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you,

2 Senator.

3 Mr. Paparian.

4 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

5 I wanted to actually get back to something Mr. Eaton

6 brought up initially and I'll just ask it in a different

7 way I guess.

8 We have references in here to scoring criteria

9 and evaluation process. And I guess the question is is

10 what we're voting on today the scoring evaluation and the

11 criteria process or is there a different scoring criteria

12 and evaluation process for each grant that comes forward,

13 I guess that's to counsel or to Admin.

14 DEPUTY DIRECTOR JORDAN: Each of the grant

15 programs has different preference criteria. What we have

16 attempted to standardize over the years is the actual

17 general review criteria. This item is specifically

18 talking about the scoring criteria, whether it be general

19 or preference points, and the actual evaluation process

20 that's set out in determining how to review those

21 applications an award them.

22 BOARD MEMBER PAPARIAN: Okay, but every time a

23 grant program, if we have the playground grants for this

24 year, will we have a new scoring criteria and evaluation

25 process brought to the Board before that goes forward?

1 DEPUTY DIRECTOR JORDAN: Each of them are brought
2 before the Board annually.

3 BOARD MEMBER PAPARIAN: Each scoring criteria and
4 evaluation process?

5 DEPUTY DIRECTOR JORDAN: Yes.

6 CHAIRPERSON MOULTON-PATTERSON: But I thought you
7 said the general.

8 BOARD MEMBER EATON: But part of the problem has
9 been, and each of you as board members at one time have
10 referenced it, with regard to why you can't change the
11 criteria, this is the general criteria by which all grants
12 are governed by. Then each of them, as we get into
13 certain issues, we get into the preference points.

14 So if you look at it, this is the master mould,
15 if you will. So when they bring the criteria together in
16 individual grants, it has this master mould, and then what
17 we're able to do is tinker with the specifics of the
18 preferences that you might have, based upon the particular
19 criteria.

20 It could be green procurement, it could be
21 environmental justice, all those kinds of things, but the
22 master mould as to how you look at things are done, when
23 that's brought forward, you can't even determine when the
24 tie is going to be, because you don't even know that
25 you'll have a tie.

1 So you set it up here as a master, sort of,
2 theme. And that's what this is about. And so when we,
3 three months from now, say we didn't know that's what
4 we'er voting on, that's what you're voting on, you're
5 voting on the master plan, if you would, so to speak.

6 And that's why this is so important in the sense
7 of how you set your direction for the staff, and so that
8 there cannot be these differences with regard to the
9 general criteria. There can be differences with
10 specifics, because that's based upon some of the subject
11 matter of the individual grants. But, yes, obviously
12 they've got to come back, but as you look at the two boxes
13 always the first box is always the same, because we have
14 approved a general criteria which is just what we're doing
15 right now.

16 That will never change, because they'll say we
17 can't change it three months from now, because we did the
18 whole master for the grant cycle, that's what Senator
19 Roberti was trying to do a month or two ago. And they
20 said you couldn't do it because of the criteria generally
21 for all the grants. So this is it that -- that's why this
22 mould becomes kind of an important footprint, so to speak,
23 for the rest of us.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
25 Eaton. We do have one speaker.

1 Skip Lacaze City of San Jose.

2 MR. LACAZE: Good afternoon. My name is skip
3 Lacase with the City of San Jose. The City would like to
4 support the revised green procurement criterion for the
5 value of 15 percent of the total points. I'm not offering
6 a position on the entire item. The City of San Jose has
7 just completed approval of a new council policy on
8 environmentally preferable procurement.

9 This policy was put on the purchasing division's
10 workplan for the year in great part because of the
11 existence of your board's policy on green procurement as a
12 requirement for grants.

13 The policy built on our existing 1990 policy,
14 which because of the five-year rule, did not satisfy your
15 criterion. I have to admit that when I first saw this
16 last year too late to deal with it, I was irritated.
17 However, the fact that we had to open it up and look at it
18 again has given us a much broader and deeper policy, has
19 given us an opportunity to take this subject before the
20 council, achieving unanimous consent both at the
21 environment committee and at the full council to proceed.

22 The ongoing criterion just in your own grants
23 will give us a significant amount of strength within the
24 city bureaucracy to continue to push for strong
25 implementation of the environmentally preferable

1 procurement policy, which could fade if there was no
2 penalty attached to it.

3 So I'd simply like to restate our support and
4 inform you that the Solid Waste Commission of Santa Clara
5 County has adopted our policy as a model and recommended
6 it to all the cities in Santa Clara County and to the
7 Board of Supervisors. And, in part, because of the
8 existence of your 15 percent criterion, I strongly suspect
9 that the majority, if not all, of those jurisdictions will
10 implement some policy.

11 Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you very
13 much, and please thank the City of San Jose for what
14 they're doing.

15 Mr. Eaton, do you have some -- we only --

16 BOARD MEMBER EATON: I have some alternative
17 language with regard to Subsection E and tying scores.

18 And I'm going off of the Agenda Item number 7,
19 revised, which was recently handed out, a two-page
20 document, just one page.

21 I think Mr. Paparian's office has the single
22 sheet of paper that I have and not the double one handed
23 out.

24 Anyway, the language would read Subpart E, Ties
25 And Scores, "Where grant requests among the applicants

1 with tie scores exceed funding availability, the ties
2 shall be brought forward to the Board at the time the
3 award for the grants are to be made in the agenda item,
4 and the Board shall, to the extent possible, determine how
5 those ties shall be resolved from the most fair and
6 equitable manner to the parties."

7 CHAIRPERSON MOULTON-PATTERSON: That sounds fine.

8 Mr. Medina, you had said before you wanted to
9 make the motion. Would that language be acceptable to
10 you?

11 BOARD MEMBER MEDINA: Yes, it would.

12 CHAIRPERSON MOULTON-PATTERSON: Okay, Mr. Medina
13 makes the motion.

14 BOARD MEMBER PAPARIAN: Madam Chair?

15 CHAIRPERSON MOULTON-PATTERSON: Yes.

16 BOARD MEMBER PAPARIAN: Just to clarify, so we'll
17 be working off the version of the resolution that was
18 handed out with a lot of strikeouts and so forth with the
19 substitution of the E that Mr. Eaton stated.

20 CHAIRPERSON MOULTON-PATTERSON: Right. Did we
21 get that or do we need to repeat that?

22 DEPUTY DIRECTOR JORDAN: Could we have that
23 repeated, please.

24 CHAIRPERSON MOULTON-PATTERSON: Sure E, Ties And
25 Scores -- could you just read from this, Mr. Eaton?

1 BOARD MEMBER EATON: Sure.

2 CHAIRPERSON MOULTON-PATTERSON: "Where grant
3 requests among applicants with tie scores exceed funding
4 availability, the tie shall be brought forward to the
5 Board in an agenda item and the Board shall make the
6 determination of which applicant shall receive the award,
7 assuming the staff has made the determination that the
8 scaling down of the proposed projects resulting in
9 decreased grant requests could not be accomplished
10 successfully."

11 BOARD MEMBER EATON: That's the old language.
12 That's the language that needed to be revised.

13 Perhaps, the court reporter could --
14 I'll read it again.

15 CHAIRPERSON MOULTON-PATTERSON: I apologize I had
16 it wrong.

17 BOARD MEMBER EATON: No, that's fine. What we're
18 doing is we're going to strike all of Subsection E. It
19 gets crazy when we have 15 million pieces of paper.

20 Let's work off what Mr. Paparian had mentioned
21 was the two-page document we just handed out with those
22 changes, correct? And we all agree that the change with C
23 on green procurement were okay?

24 CHAIRPERSON MOULTON-PATTERSON: Right.

25 BOARD MEMBER EATON: And with D the strikeouts in

1 the subsequent language was agreed to. Just work off the
2 two page document right here and that may be the easiest
3 way to work, because I think that's the proper way so we
4 don't try to incorporate two pieces of paper, just one.
5 Then we get to Subsection E.

6 And what we should do with Subsection E is strike
7 the entire subsection E with the exception of that, "Be it
8 further resolved," that should continue to stay.

9 So the new subsection which would read, "Ties And
10 Scores," would read, "When grant requests among the
11 applicants with tie scores exceed funding availability,
12 the tie shall be brought forward to the Board at the time
13 the awards are made in an agenda item and that the Board
14 shall make a determination as to ties as to which
15 applicant, if any, shall receive an award or portion of an
16 award in a manner that is both fair and equitable in order
17 to resolve the issue of the tie score."

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. So we
19 have a motion by Mr. Medina for Resolution 2001-464,
20 revised, with the new language Mr. Eaton just spoke into
21 the record, and did anyone second it?

22 BOARD MEMBER JONES: I'll second it.

23 CHAIRPERSON MOULTON-PATTERSON: Seconded by Mr.
24 Jones.

25 BOARD MEMBER JONES: Just one question to the

1 maker of the motion, Mr. Medina, can the idea about having
2 Admin make sure that all those criterion meets our
3 criteria approval of the Executive Directors, is that
4 acceptable?

5 BOARD MEMBER MEDINA: That's correct.

6 BOARD MEMBER JONES: Because right now it's in
7 every department. So they're going to have a more, yes or
8 no.

9 DEPUTY DIRECTOR JORDAN: Board Member Jones, the
10 Administration and Finance Division, Grants Administration
11 we currently work with each of the programs and we do
12 review the actual scoring criteria and evaluation process.
13 We also will sit on many of the panels with regards to
14 looking at the actual awards.

15 BOARD MEMBER JONES: What I'm asking the maker of
16 the motion is to make sure that you not only review it,
17 but if they don't follow our board criteria, you deny it.

18 DEPUTY DIRECTOR JORDAN: Okay.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, please call
20 the roll.

21 SECRETARY FARRELL: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY FARRELL: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY FARRELL: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY FARRELL: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY FARRELL: Roberti?

5 BOARD MEMBER ROBERTI: Aye.

6 SECRETARY FARRELL: Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 That's our last agenda item for today. But when
9 we split it like this, I would like to have public
10 comments on each day. And we do have just real quickly is
11 Mr. William Prinz, City of San Diego still here.

12 Mr. Prinz thought we were hearing 31 today, so
13 we're not going to take action on it, but we would be
14 happy to hear your brief comments.

15 And sorry we had to wait all day.

16 MR. PRINZ: Madam Chair and Members of the Board,
17 Bill Prinz with the City San Diego LEA. And I appreciate
18 your accommodating some testimony on tomorrow's item.

19 The item is number 31, revised solid waste
20 facility permit for the West Miramar Landfill.
21 Concurrence with this permit will resolve a longstanding
22 permit violation for the traffic volume at the facility.

23 The revised permit will increase the daily
24 traffic from 1,400 vehicles per day to 2,000 vehicles per
25 day. And that was based on traffic studies on some very

1 solid environmental work on that and hard work from the
2 City staff and the LEA and board staff.

3 So if there are any questions about that item, I
4 can address them now.

5 I'd like to respectfully request concurrence with
6 that item.

7 CHAIRPERSON MOULTON-PATTERSON: Okay, any
8 questions today?

9 We'll be taking action tomorrow, but any
10 questions of Mr. Prinz?

11 Yes, Mr. Paparian?

12 BOARD MEMBER PAPARIAN: Just a quick question.
13 Can you just briefly characterize, you know, why they've
14 exceeded it, have landfills closed down in jurisdictions,
15 is the tipping fee low, what's the cause?

16 MR. PRINZ: Probably one of the main reasons for
17 the increase in traffic was there's another landfill
18 nearby in the City, and they have a lot of requirements on
19 the public using the facility, like they require hard hats
20 and some steel-towed boots and different things, just for
21 the public to come in and use the landfill, and so a lot
22 of the public would rather go five miles down the road to
23 the Miramar Landfill. Also, you know, just a general
24 population increase.

25 Because the traffic studies show that most of the

1 volume increase was from the public loads, the small
2 pickup trucks, cars and that sort of thing, so that's
3 where most -- the actual tonnage volume hasn't increased
4 very much, and we aren't addressing tonnage with this
5 permit.

6 BOARD MEMBER PAPARIAN: Are the tipping fees
7 comparable?

8 MR. PRINZ: They're comparable. They're
9 identical basically.

10 BOARD MEMBER PAPARIAN: Okay.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

12 BOARD MEMBER MEDINA: Yes. In reading your --
13 the parties that you have CC'd, I wonder if you would add
14 Senator Gloria Romero to that who's been chairing the
15 Senate Committee on Solid Waste?

16 MR. PRINZ: Antonio Romero?

17 BOARD MEMBER MEDINA: Yeah, Senator Gloria
18 Romero.

19 MR. PRINZ: Okay.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Thank you for waiting around. And our last --
22 Any other questions?

23 Thank you, Mr. Prinz.

24 Our very last public comment is someone who
25 cannot be here tomorrow and will make a brief comment is

1 Justin Malan.

2 MR. MALAN: Madam Chair and Board Members, thank
3 you for your indulgence. I'm sorry. I have to be at a
4 legislative hearing in Fresno tomorrow. I'd like to end
5 up on a high note. I did send around a letter to you and
6 Mark Leary.

7 And on behalf of CCDH and the LEAs, we wanted to
8 take this brief opportunity of thanking you and your board
9 for the progress that you made over the last year. We're
10 not always here for every event and we apologize, because
11 we've been stretched pretty thin.

12 But we did want to take the opportunity, and we
13 would have done it tomorrow, had I been here to just cover
14 four quick points.

15 Firstly, although it's time consuming and at
16 times costly to go through a rulemaking process, for every
17 single policy of the Board, we applaud you, we support
18 you. We feel that going through that formal rule-making
19 process now with nearly 15 different sets of regs in the
20 hopper for P&E alone, it's certainly going to add
21 clarification to the process. And it helps us and I'm
22 sure it helps you and your staff ensure that the direction
23 you give to industry and the direction you give to the
24 LEAs is clear and consistent.

25 So at times although it's cumbersome and tiring,

1 we applaud that. We also applaud your open, constructive
2 way in which you conduct the rule-making process, and we
3 appreciate being part of virtually all those reg packages
4 as they move through the process.

5 With a few, I wouldn't say all minor exceptions,
6 but with a few relatively minor exceptions, we support all
7 15 packages going through the process. And we certainly
8 want to commend staff for the effort that they have done.

9 Secondly, we'd like to thank the Board for taking
10 the initiative in being proactive on helping the locals
11 address the legacy burn dump issue. This has been a
12 problematic issue for us, for all local agencies. The
13 Waste Board has stepped up with grant funds. They've
14 stepped up with a tremendous amount of staff support and
15 encouragement and we've been able, throughout the State,
16 to fix up, to remediate scores of old legacy burn dumps
17 throughout the State.

18 We hope that you stay in the process with us.
19 And as we negotiate the most equitable way of dealing with
20 this with CalEPA that you'll be able to continue providing
21 the support to the LEAs and the locals.

22 Thirdly, we'd like to thank you and the Board for
23 continuing the excellent training that you have been
24 offering us. The LEA conference is part of that training.
25 But recently we were shared -- your staff shared with us

1 an 18-month training program. This is great. This is
2 what we have always perceived as one of the most
3 invaluable services that the State can provide the locals
4 to bring up our service and generally the service of the
5 solid waste management in the State is to ensure that we
6 are trained and calibrated.

7 And finally, a little bit late after the fact,
8 but we did want to formally acknowledge that the LEAs and
9 CCDH is strongly supportive of your strategic plan. We
10 believe this is a visionary document. We don't always get
11 involved in that type of issue. We're more on the
12 regulatory side. But from environmental health agencies
13 throughout the State, we would like to commend you and
14 your board and your staff for showing that vision, and
15 we'd like to offer any assistance we can in implementing
16 that strategic plan.

17 And finally, we haven't done it formally, but
18 we'd like to congratulate Mark in his position.

19 Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
21 Malan.

22 Mr. Medina.

23 BOARD MEMBER MEDINA: Yes, Madam Chair, it was
24 Mr. Malan and not the previous speaker that I had asked to
25 add Senator Gloria Romero to your CC list and thank you

1 for your letter.

2 MR. MALAN: Thank you very much.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

4 Medina.

5 With that, our meeting is adjourned for today.

6 We'll see you tomorrow at 9:30.

7 (Thereupon the California Integrated

8 Waste Management Board adjourned at

9 3:55 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 29th day of November, 2001.

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